

Exhibit A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JEFFREY W. TAM,

Plaintiff,

v.

JOHN E. POTTER,

Defendant.

CASE NO.

07-2747 SI

DEPOSITION OF JEFFREY TAM

WEDNESDAY, DECEMBER 12, 2007

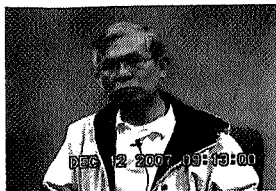
BEHMKE REPORTING & VIDEO SERVICES

BY: CARYE C. TORRES, CSR #10685, CRP

160 SPEAR STREET, SUITE 300

SAN FRANCISCO, CALIFORNIA 94105

(415) 597-5600



1 Q So you were in the Army for four years, then
2 you joined the Postal Service right after that?

3 A Yes, after that, yeah.

4 Q Where did you start at the Postal Service?
5 Which office?

6 A Oakland. The same installation where I am now.

7 THE REPORTER: I'm sorry?

8 THE WITNESS: Oakland, the same installation I'm
9 working right now. I been there all the time. I been
10 there all the time.

11 BY MS. WANG:

12 Q So you've been at the same location?

13 A Same location for 27 years.

14 Q So when was that that you first joined the
15 Postal Service, then? What year?

16 A 1980, December 27th.

17 Q And then you went -- while you were at the
18 Postal Service you said that you went to junior --

19 A Junior college in Alameda.

20 Q Is that --

21 A And then I transfer to Cal State Hayward. Now
22 they call East Bay, Cal State East Bay.

23 Q When did you go to -- is it called the Junior
24 College of Alameda?

25 A Yes, Junior College Alameda.

1 Q And when did you first start at --

2 A I think it's around 1981 or somewhere in there.

3 Q So were you -- you were going to school part
4 time and working part time?

5 A Part time. Working part time, yes.

6 Q And what degree did you receive?

7 A The AA degree.

8 Q Did you have --

9 A Actually, AS. They call AS.

10 Q What does that stand for?

11 A Associate science.

12 Q And did you have an area of specialty?

13 A Business.

14 Q Was that your major?

15 A Yes.

16 Q And then when you went on to Cal State
17 Hayward --

18 A Yes.

19 Q -- what degree did you receive?

20 A A bachelor.

21 Q Bachelor of science?

22 A Bachelor of business, production and operation
23 management.

24 Q When did you start at Cal State Hayward?

25 A I think that's around -- I think '83 or

1 something, '83. I start '83. I finished in '86.

2 Q And your major was business?

3 A Production and operation management. That's a
4 business.

5 Q Production and operation management?

6 A Yeah.

7 Q Any further education after that?

8 A No.

9 Q Let's go back to when you started at the Postal
10 Service.

11 When you started in 1980, what was your
12 position that you entered in as?

13 A As a part-time flexible motor-vehicle operator,
14 just driver.

15 Q So you were a driver?

16 A Yes.

17 Q And what did you -- I guess, what were your
18 duties?

19 A Transfer mails.

20 Q So what kind of vehicle were you driving? Were
21 you delivering mail, or were you transferring it between
22 offices?

23 A Transfer was delivering from station to
24 station, and pick up from station. Driving sometimes
25 they call bobtail, it's one pieces, or semi, tractor

1 trailer. I think they call it tractor trailer.

2 Q And what was your -- what was your GS level,
3 like your position level? I'm sorry, your -- what was
4 your grade --

5 A I think --

6 Q -- or rank?

7 A I think it's a 5. I think it's -- yeah, 5. At
8 that time it was 5.

9 Q Okay.

10 A And then they changed it. When you up to a
11 full-time tractor trailer, it would be a level 6 at the
12 time, but right now they upgrade the tractor trailer
13 level 7, and motor vehicle is a level 6.

14 Q But at the time that you first started, you
15 were at a level 5?

16 A Level 5.

17 Q And then did you ever change levels while you
18 were at the Postal Service?

19 A No.

20 Q So you --

21 A Except when I promote to be a full time on
22 tractor trailer, it would be level 6. There were three
23 year after -- I think '83. It take me three years for
24 the part-time flex.

25 Q So in 1983 you became a full-time tractor --

1 A Yes.

2 Q -- trailer operator?

3 A Yes.

4 Q And at that point your level went up to

5 level 6?

6 A Level 6, yes.

7 Q Did your duties remain the same or --

8 A Same, transfer.

9 Q And at this time you were working full time,

10 but you were also attending college?

11 A Attending college, yes.

12 Q What was your -- what was your title? Is it

13 just --

14 A It's a tractor-trailer operator.

15 Q Tractor-trailer operator, okay.

16 And after 1983 did your position change at all?

17 A No. When you promoted full-time regular, it's

18 a tractor-trailer operator, yes. Until I move up to

19 change the bid for the bulk-mail assistant position.

20 Q When was that?

21 A That was 1999, May 1999. But the same grade

22 level.

23 Q So in 1999 you bid for a different position,

24 and that was as a bulk-mail assistant?

25 A Bulk-mail assistant, yeah.

1 Q What division is that in?

2 A It's same, transportation in motor-vehicle
3 craft, under motor-vehicle craft.

4 Q I'm sorry. Could you say that again.

5 A Still under motor-vehicle craft in the
6 transportation. In the same unit. I never left the
7 unit.

8 Q And what was your level at that point?

9 A Level 6.

10 Q Why did you bid for this position?

11 A Two reason: Before I was -- after I graduated
12 from college, I tried to apply for the management
13 position. I was denied. And I thought maybe I should
14 have some experience. And also because all the driving,
15 age catch with me, all the joints are hurting. So two
16 the reason I bid the position up there, and one for
17 advancement, gain some experience to run the operation.

18 Q What was the position that you had applied for,
19 the management position that you had applied for?

20 A Transportation supervisor.

21 Q And when was that, that you just referred to
22 when you said after you graduated?

23 A Yeah. One time I apply for -- in the mail
24 processing. One time mail processing. And then also I
25 apply I think two times in the transportation

1 supervisor. I also denied. I thought maybe I need some
2 hand-on experience.

3 Q So I guess, first of all, how do you bid? What
4 does that mean when you say that you bid for a position
5 at --

6 A When they had the position open, they have to
7 put up for bid for any seniority, if they have high
8 seniority that want to bid on it.

9 Q And what were the duties of a bulk-mail
10 assistant?

11 A To basically document all the movement on the
12 truck that go to -- from one area to -- one station to
13 another station, all the truck that move from storage to
14 storage, when they finish loading it, and providing
15 another empty to let them reload again. And the manager
16 move them in all the truck. And receive phone --

17 Q I'm sorry?

18 A And also receive the phone call, answer the
19 phone call there -- from the client that what equipment
20 they need and what time they got to pick up mails. And
21 also from those TME to coordinate and move that.

22 Q What is a TME?

23 A TME, I think it's -- I think it's -- I don't
24 exactly know, but probably technical menu employee,
25 something like that. I don't know exactly what the

1 definition of --

2 Q What did you coordinate with the TMEs?

3 A Yes.

4 Q What is it that you coordinated with them?

5 A Because they dispatch the truck to every
6 station, but they need the -- need the trailer to load
7 up, put in the store to load up the mail. When they
8 finish load up the mail, that need to go back to
9 storage, and then provide another empty to the same
10 store owner, same area, to reload another load up.

11 Q Any other duties that you have?

12 A Basically, that's it.

13 Q And why did you feel that this -- that taking
14 this position would help your -- help your advancement?

15 A Because hands-on, you can learn.

16 Also I apply for the -- they call 204-B as
17 acting supervisor in the operation, that you learn it,
18 you assign driver wherever it go.

19 Q But how did you -- what of the duties as a
20 bulk-mail assistant would have helped your advancement?

21 A Because when you go up there, you know what the
22 driver call, and then you know all the operation, where
23 he go, and what -- how they accept the client, what
24 equipment they need. So after one acting supervisor,
25 when you have a side order driver that do the -- do the

1 Q Okay.

2 Do you remember the first -- well, when you
3 first started in 1999, what were your -- when you
4 started as a bulk-mail assistant in 1999, what were your
5 hours?

6 A I was a relief, four two relief, okay? From
7 Saturday, Sunday, I start in 0700 hour in the morning.

8 Q Okay.

9 A And Monday at 1500; that mean 3 o'clock in the
10 afternoon. And then Tuesday, double back, it's
11 10 o'clock in the morning. Then Wednesday it's 0700
12 hour, and I'm off Thursday and Friday.

13 Q How long did you have that schedule?

14 A I have that schedule from 1999 to 2003.

15 Q And then in 2003 what was your schedule?

16 A They have a -- in that schedule, that schedule
17 right now because -- because in 2002 I request go back
18 to driving. They were denied it, okay?

19 Q Before we get into all of that --

20 A Okay.

21 Q -- I just want to --

22 A Okay.

23 Q Just let me know what your schedule was --

24 A Okay.

25 Q -- then we can go back and discuss that more.

1 A Okay.

2 In 2003, Saturday, Sunday, I working 0700 hour.

3 Q Okay.

4 A And Monday still 1500 hour, and then off
5 Tuesday and Wednesday. Thursday, Friday in 2300 hours.
6 That's mean 11 o'clock in the evening, at night.

7 Q Okay.

8 And how long did that remain your schedule?

9 A That -- I filed the EEO on the hour. They --
10 after the mediation, they changed the Thursday and
11 Friday. I requested the relief at 7 o'clock, but they
12 only allow me to go like 4:40 in the morning, 4:30 in
13 the morning reporting time.

14 Q So your schedule changed in 2004?

15 A In 2003, because I filed EEO complaint. We
16 settle -- instead of 2300, come in at 0430 in the
17 morning.

18 Q So when in 2003 did your schedule change?

19 A I think it's either September or August. I
20 think it's closer like that, August or something. I had
21 to look into EEO settlement.

22 Q So in September or August of 2003, your
23 schedule changed to --

24 A Only Thursday and Friday.

25 Q So that Thursday and Friday you would start at

1 4:30?

2 A 4:30 in the morning.

3 Q In the morning?

4 A Yes.

5 Q And that was based on an EEO agreement that
6 you --

7 A Yeah.

8 Q -- signed?

9 A Yeah.

10 Q And then what was your schedule after that?

11 A I think usually we have one year -- every year
12 they have a signup, but in 2004 they didn't sign up. So
13 I remain in 4:30 in the morning on Thursday, Friday, and
14 Saturday, Sunday, Monday didn't change, same thing, like
15 7 o'clock and 1300 hour.

16 Q Okay.

17 A Or 1500 hour.

18 Q Okay.

19 A In 2005 they -- my time -- they give me a split
20 day off. So I'm off Saturday -- Saturday, Monday.
21 Sunday it's 0700 hour. Tuesday 0500 hour in the
22 morning, 5 o'clock in the morning. Wednesday 1900 hour,
23 which is 7 o'clock in the evening. And Thursday 1500
24 hour. Friday 1600 hour, which is 4 o'clock in the
25 afternoon.

1 Q Did your schedule change after that?

2 A No. Until I go back to drive.

3 Q When did you go back to driving? What was the
4 date that you --

5 A I put in request in February the 2nd. And they
6 pinch me down on the back hour until like September the
7 17th.

8 Q And is that where you are now?

9 A Yes.

10 Q So what is your title?

11 A When I go back to drive they make me a
12 part-time flex after 26 years in continued employment
13 Never left the unit. Never left the post office.

14 Q What is your -- okay.

15 So when you first went back you were a part
16 time --

17 A Part-time flex motor-vehicle operator.

18 Q And did that change at some point?

19 A Until 2006, then they finally opened the
20 position for bid. I have -- you know, they make me have
21 a less seniority than the new hiring.

22 Q But what was your position in -- in 2006 your
23 position changed?

24 A I promote to be regular again.

25 And also the -- that -- in March, also they

1 amended complaint in this case?

2 A Yes.

3 Q And what are your claims in this case, in this
4 complaint?

5 A On which one, amended?

6 Q This; Exhibit 2.

7 A This amended, right?

8 Q That's right.

9 A On amended, harassment, human right violation,
10 contract violation. Yeah, I think the first six is --
11 it's the same thing than the first I filed.

12 Q So the first six allegations of your second --
13 of Exhibit 2, which is your amended complaint, are
14 discrimination claims?

15 A The first six of original file, but I think 7,
16 8 and 9 are amended, I put in, added to it.

17 Q Right. And my question is your allegations 1
18 through 6 on Exhibit 2, which is your amended complaint,
19 are they allegations of discrimination?

20 A I think they include -- include in this
21 discrimination for the promotion, the area there.

22 Q And anything else other than discrimination?
23 I'm just talking about your first six.

24 A Yeah, for let me go back to drive, and also
25 discriminate. Yeah, I think it's -- yeah, yeah, there's

1 a discrimination.

2 Q Is there anything else that you're claiming in
3 your allegations 1 through 6 other than discrimination?

4 A I think that's also in here, human violation,
5 because they pin me down and not let me go back, you
6 know, pinch me the good hour, pinch me down and try to
7 hurt me with the bad hour.

8 Q Is there anything else that we haven't talked
9 about? So we talked about your allegations in your
10 amended complaint include human rights violations,
11 contract violations, harassment and discrimination.

12 Is there anything else that you're alleging?

13 A I think that's it. That's included everything.

14 Q And your discrimination claim, what is the
15 basis for your discrimination claim in that, what --

16 A My race or original -- national origin.

17 Q Anything else other than your race and national
18 origin?

19 A Maybe age too, because in the way they don't
20 promote me, because I have the service years. And,
21 plus, my age close to the retirement, that it's possible
22 that -- also the age because of the service -- I mean,
23 right now I'm in like 31 years plus. You know, 27 years
24 in the Postal Service and four years in the military.
25 That add up to 31 year right now. And at the time I was

1 almost at the 30 year, because at that -- at -- promote,
2 they probably -- retirement, they had to pay more.

3 I know that when you are a supervisor for
4 retirement, they have like 30 percent -- I mean, 70
5 percent of their basic retirement, and then additional
6 year, they add up to 2 percent.

7 So if they don't promote me, promote the
8 younger one that have less seniority, he had less than
9 seven years in the post office, the post office will
10 save money by not promote me, the senior person.

11 Q Let's talk about your discrimination claims.

12 How did the Postal Service discriminate against
13 you?

14 A By not promote me, and basically on Article 39
15 that said to promote the most qualified person.

16 Q Okay.

17 A And if -- if the same person have the more --
18 same qualifications, that you base it on the seniority.

19 Q Okay.

20 A And he promote people that outside our union,
21 like mail handler, the mail handler.

22 Q Okay.

23 A And the rest of the driver, I have like two of
24 them, they have more seniority than I do, but they have
25 like another, the other total -- the other four, four

1 2002, for the most part you were on acting detail -- I'm
2 sorry, you were on detail as the acting supervisor of
3 transportation; is that right?

4 A Yes.

5 Q And when you were on acting -- when you were on
6 detail as the acting supervisor of transportation, you
7 were actually at level 16?

8 A Yes. When I acting supervisor, yeah, I was 16.

9 Q When did you apply for your promotion to -- for
10 the promotion to transportation supervisor?

11 A 1994, I think one time, but 1999, 2000, 2001,
12 2002 and 2003. Between 1999 and 2003, under Mr. Keith
13 Inouye, there's nine positions to be put up for.

14 Q So, first, in 1994 you said you applied?

15 A Yes.

16 Q Did you feel that -- you didn't get that
17 promotion?

18 A No, I didn't get it. That's why --

19 Q Did you believe that you didn't get it because
20 of discrimination?

21 A No. I feel maybe I don't have the hands-on
22 operation, that experience.

23 Q So in 1994 you didn't get it because you
24 didn't -- because you didn't have the qualifications?

25 A Yes. That's what I believe.

1 A I think he also detail as 204-B in the mail
2 processing, because -- because the mail processing that
3 require you promote you have to go through that ASP
4 program. That's assistant supervisor program. You have
5 to go through all kind of test, but in transportation we
6 don't require to go through it.

7 Q So you think that Mr. Busby was a mail handler,
8 but he was on detail as an acting supervisor within mail
9 processing?

10 A Yes. I believe he's a 204-B.

11 Q And when did you -- when were you aware that
12 Mr. Busby received this promotion and you didn't?

13 A The posted that, who promote it. They post. I
14 think it's in November.

15 Q November of 1999?

16 A Yes.

17 Q When you said that there were two positions in
18 1999, do you know who --

19 A Yeah. I cannot remember who promote in that
20 same year too, but I cannot remember.

21 Q Do you know --

22 A There's two position.

23 Q But do you know that the two positions were
24 both filled?

25 A Yeah, both positions were filled.

1 don't want all that harassment coming out, you know.

2 Q Is there any other reason why you think that
3 this decision was based on -- this decision not to
4 promote you was based on your race?

5 A I believe that's it. I believe that, you know.

6 Q Did Mr. Inouye --

7 A You can call him Keith. Make it easier.

8 MS. WANG: I don't know why I can't pronounce it.

9 MS. LEE: It's "Inouye."

10 MS. WANG: "Inouye."

11 MS. LEE: "Inouye."

12 MS. WANG: Okay.

13 Q Is there -- I guess did he ever say anything to
14 you about your race?

15 A No, he didn't say anything.

16 Q So he's never mentioned -- he's never mentioned
17 to you anything about your race?

18 A No.

19 Q You had said before that you thought there
20 might be some type of age discrimination in not getting
21 a promotion.

22 What's the basis for that belief?

23 A If they don't promote me, that will save post
24 office money, I guess, you know, because if they have
25 more service years in post office, when you retire, you

1 know, instead of it maybe last longer when you hire and
2 have less service years in the post office, but if
3 you --

4 Q Has anyone ever told you that that was a reason
5 why you didn't get a promotion?

6 A No. They don't -- they won't open their mouth
7 like that.

8 Q Has Mr. Inouye ever mentioned your age to you?

9 A No.

10 Q Do you know how old Mr. Inouye is?

11 A No, I don't know.

12 Q Is he approximately your age? Older? Younger?

13 A I cannot guess. I don't want to take a guess
14 he is. Probably plus or minus, whatever, in there, in
15 the same group, same neighborhood. I cannot -- I cannot
16 estimate that.

17 Q You don't know his precise age --

18 A Not at all.

19 Q -- but you think it might be in the same range
20 as yours?

21 A Probably, yeah. I think, yeah. Maybe he be
22 younger, I guess. He look younger than I do.

23 Q So that was 1999.

24 And then in 2001 you also applied --

25 A 2002 also -- 2000.

1 promotion because of your age? We're talking about in
2 2000.

3 A At the time I wasn't thinking about that, but,
4 you know, at the time I wasn't thinking that, the age
5 thing.

6 Q Do you remember when you found out that you
7 didn't get the promotion in 2000?

8 A Until they post who got the position.

9 Q Do you remember when that would have been,
10 approximately?

11 A When? I cannot remember that one.

12 Q Earlier in 2000? Late 2000?

13 A I had to look back at it.

14 Q Okay.

15 A That information.

16 Q Let's go on to 2001.

17 A 2001 either have two or three position, I
18 remember.

19 Q So there were maybe two or three positions --

20 A Yes.

21 Q -- available for a transportation supervisor?

22 A Yeah.

23 Q And you applied in 2001?

24 A Yeah.

25 Q Who would have made the promotion decision in

1 A I think, yeah. They have two board. Not
2 position, but they have two board. And the other board
3 is set up in 2002.

4 Q So this board selects who does the interview
5 or -- I'm sorry -- strike that.

6 This board selects who or what candidates will
7 be interviewed?

8 A Yes.

9 Q And they also conduct the interviews?

10 A Yes.

11 Q Do you know who was part of that board?

12 A The first board I cannot remember, but the 2002
13 I have one board member that --

14 Q We'll get to that. I'm sorry to interrupt, but
15 let me just focus in on 2001, and then we can talk about
16 2002, about the board there.

17 A Okay.

18 Q So you don't know who was on the board in 2001?

19 A No. Neither 2000 or 2001, but I think probably
20 2001.

21 Q Okay.

22 A I don't -- I don't remember the board members.

23 Q Would the board members -- well, first, are
24 there three board members?

25 A Yes.

1 Q Would they come from the transportation unit?

2 A No.

3 Q Where would they come from?

4 A I think all over the post office somewhere. I
5 hear even some come from San Jose. I don't -- some them
6 come from like Orinda, one group, whatever, the area,
7 the supervisor, whatever, manager, supervisor, whatever.

8 Q So your understanding is that the board members
9 are all either supervisors or managers?

10 A Yes.

11 Q They don't all come from the same office, the
12 same location?

13 A Not that I know of. I don't even know this
14 board member, except one in 2002.

15 Q When you say you don't know who the board
16 members were, is it that you weren't familiar with them,
17 like you had never met any of them before?

18 A Yes.

19 Q So they didn't know who you were? You had
20 never worked with them before?

21 A No. Maybe they see me before, because we go
22 all the station, but I never noticed them.

23 Q So you've never had any interaction with any of
24 the three board members?

25 A No.

1 Q And in two thousand -- well, in -- when there's
2 a board that does the selection for the interview and
3 the interview, does the person who is ultimately
4 selected for the promotion come from that pool that's
5 interviewed?

6 A Yes, I believe, yes.

7 Q So you have to be selected for an interview in
8 order to get the promotion?

9 A Yes, I guess.

10 Q And the board is the one that makes the
11 decision who to interview?

12 A I assume, yes.

13 Q Is there -- do you feel -- do you believe that
14 the reason that you didn't get the promotion in 2001 was
15 because of discrimination?

16 A I wasn't thinking at the time, no. I wasn't
17 thinking that, you know, discrimination, but he -- he
18 asked me I didn't pass it. That's it.

19 Q I didn't quite understand what you just said.
20 You didn't think that it was because of
21 discrimination --

22 A I wasn't thinking about a discrimination at the
23 time, you know.

24 Q But then you said something else. He said that
25 you didn't make --

1 A Yeah. He said I didn't pass the board, you
2 know. Because I want to find out what the actual
3 board -- who pass the board.

4 Q So Mr. Inouye told you that you didn't -- that
5 the reason you didn't get the promotion was because you
6 didn't get past the board?

7 A Yes. I didn't even got interview.

8 Q Let's talk about 2002.

9 A 2002 they have like two position open.

10 Q Do you know who received those promotions?

11 A I think one is Gloria, and Mr. Davis, Hank.
12 Hank Davis. Davis is the last name. Hank, Hank Davis.

13 Q Hank Davis?

14 A Yeah.

15 Q Did you ask -- well, did Mr. Inouye make the
16 decision who to hire?

17 A Yes.

18 Q Was there a board?

19 A Yes.

20 Q Did the board first decide who would be
21 interviewed?

22 A I guess, yes.

23 Q Do you remember who or do you know who was on
24 the board?

25 A I remember one of the member, because she also

1 working in the Oakland that I seen her a lot, because
2 it's Latoya, Ms. Latoya Jackson.

3 Q And --

4 A She's a senior plant manager in the mail
5 processing tour one.

6 Q Had you ever had any interaction with her?

7 A No.

8 Q Do you know who the other board members were?

9 A I remember one of them, a Chinese guy,
10 Oriental. I'm not pinned down on Chinese, but I think
11 it's Oriental. But I cannot remember the name. And
12 another person.

13 Q The person who you think was -- who was
14 Asian-American, was that a man or a woman? Do you
15 remember?

16 A It's a man. I think it's a two man, except
17 Ms. Latoya Jackson.

18 Q Had you ever had any interaction with the other
19 two board members?

20 A No, no.

21 Q So in this hiring process for the promotion,
22 the board -- the board members would select who to
23 interview, and then those who were interviewed would be
24 candidates for the promotion?

25 A Yes, I assume, yes.

1 Q So Mr. Inouye would select from those who were
2 interviewed who would ultimately get the promotion?

3 A I -- I believe so, yes.

4 Q And it's still a three-member board --

5 A Yes.

6 Q -- in 2002?

7 And did you get an interview in 2002?

8 A No.

9 Q Did you ask --

10 A I mean, even that -- I remember one incident
11 that -- in 2002 that the board interview I wasn't --
12 last minute I questioned. Everybody listed a note for
13 interview on the board except me. So I contact
14 Mr. Keith Inouye, and he said it doesn't matter.

15 Then later on they send me -- on Saturday, send
16 me that -- Saturday they send out -- a lot of guy send
17 out Saturday, I pick up -- because it's late, because
18 Saturday I get off work, post office close half day. So
19 I didn't get that notice. When I go home I see that
20 yellow notice that say I have a registered mail. And
21 then Monday that day were interview. I had to rush to
22 the post office and get that note for interview for the
23 board. I remember that incident.

24 Q So is it in 2002 you did receive a notice that
25 you were going to be interviewed?

1 A No. That's why -- I didn't receive that until
2 the last minute. I notify Mr. Keith Inouye. I said:
3 Why I didn't receive that note? Everybody -- other
4 person African, they see the note, because I had another
5 coworker that she also applied for the job. And she got
6 a note what the day of the interview.

7 Q So I guess I'm not quite sure what you're
8 saying.

9 Are you saying that everyone else except for
10 you who applied to the position received an interview?

11 A They received a note to notify what day, what
12 time for the interview.

13 Q Okay.

14 A I didn't receive that note.

15 Q And you never received the note?

16 A I'm not saying never. I'm receive it late.
17 Late, very late, in the last minute, because it's --
18 Monday was the interview day. They sent -- I think it's
19 a Saturday I received that -- I was still working. When
20 I go home, I received a note that say I have a
21 registered letter to receive, okay?

22 Q Mm-hmm.

23 A And then I assume something, you know,
24 important. Monday I go down to post office Alameda,
25 pick up the mail, and that was the note for the same day

1 interview in the board.

2 Q So you did receive a notice --

3 A Same day.

4 Q -- that said that you were going to get an
5 interview?

6 A Yes, on Saturday.

7 Q So you did get selected for an interview?

8 A Yeah, for the -- through the board, yeah.

9 Q Do you know who -- who sends out the notices
10 for interviews? Is it the board?

11 A I remember, like, Latoya Jackson.

12 Q So it's not Mr. Inouye?

13 A Yeah. I didn't even know at the time. I
14 didn't pay attention. Probably embarrassing, I told
15 them, you know, I received the mail late probably, you
16 know.

17 Q So did you go to your interview?

18 A Yes.

19 Q Okay.

20 A For the board.

21 Q Do you know if Mr. Inouye makes the decision as
22 to who -- or has any input into the decision of who gets
23 interviewed?

24 A Say that again. Interview for -- for the
25 promotion?

1 Q So you didn't go for an interview in 2002?

2 A By Keith Inouye, no.

3 Q With the board, did you interview with the
4 board?

5 A Yes.

6 Q So you got past --

7 A No, I didn't know I pass or not.

8 Q Well, I guess --

9 A I guess I didn't pass -- I assume I not pass,
10 because I wasn't interviewed by Mr. Keith Inouye.

11 Q You were or you were not interviewed by
12 Mr. Keith Inouye?

13 A I was not.

14 Q You were not, but you were interviewed by the
15 board?

16 A Yes.

17 Q So you got to the level where you were
18 interviewed by the board in 2002, but you did not pass
19 that level?

20 A I don't know I pass or not. That's why I want
21 to file the [inaudible] on them.

22 Q But the next stage, if you passed the board
23 interviews, would have been to interview with
24 Mr. Inouye?

25 A Yes, I assume, yes.

1 against because of your race in 2002?

2 A Yes.

3 Q Do you believe that you were discriminated
4 against because of your age in 2002?

5 A I wasn't thought about that, you know. I
6 wasn't thought about that, age, at that time.

7 Q When did you find out that you didn't get the
8 promotion in 2002?

9 A I think after they promote, I found out like
10 either in May or June, something like that. I think
11 it's in May. That's why -- at the same time, he took me
12 down as acting supervisor. He made -- that's actually
13 when that happened. And then he never provide me the
14 external investigation clause.

15 And also my tour was end at 3:30. The driver,
16 I instruct him to turn around, but instead, he go all
17 the way to the destination and come back. That's way
18 past my time. I would turn over to the tour three
19 supervisor, which is Mr. David Hank. So it's out of my
20 hand.

21 Q So you talked about -- just now you said that
22 you were removed from your detail as an acting
23 supervisor?

24 A Yes.

25 Q Do you believe that that was for -- because of

1 said I better -- I better -- I better go back to my bid,
2 you know. I told him, I better go back to my bid before
3 he actually remove me. So I said -- I requested that
4 let me go back to my bid.

5 Q So he didn't -- did you step down from the
6 acting supervisor position before --

7 A Yes. I also step down. I don't know what his
8 decision. He said he going to take me down. So I just
9 go back to my own bid. So I put in request, let me go
10 back to my bid.

11 Q So --

12 A At the same time I assume I am stepping down,
13 you know.

14 Q So let me just make sure I understand what
15 you've said: You didn't file an EEO complaint about
16 anything related to your removal or your stepping down
17 from your position as acting supervisor of
18 transportation in May 2002?

19 A No, I didn't file an EEO.

20 Q Okay. And --

21 A To my thought, I don't want the relation turn
22 sour, and we have to, you know, work together.

23 Q And Mr. Inouye didn't remove you from your
24 position as acting supervisor of transportation; is that
25 right?

1 bulk-mail assistant.

2 Q So you said --

3 A Resume my --

4 Q -- that you were going to step down and --

5 A Resume my bid, yeah.

6 Q -- become a bulk-mail assistant?

7 A Yes.

8 Q So we left off at 2003, I think. So we're at
9 2003 in your -- that you --

10 A That's one position.

11 Q So you applied for a promotion in 2003, and
12 there was one position available?

13 A Yes.

14 Q Okay.

15 A There were no board setting. Didn't set the
16 board.

17 Q Do you know why there's a board some years and
18 some not?

19 A I don't know. I don't know.

20 Q In 2003 do you know who received the promotion?

21 A Mr. Henry Orozco.

22 Q Do you know what his position was when he
23 applied for the position?

24 A 204-B also, acting supervisor. Driver. He's
25 also a driver.

1 A I think it's O-r-z -- I cannot remember --
2 -z-o, something like that, Orozco.

3 Q That's fine.

4 Do you know his race?

5 A He's Chicano.

6 Q Do you know his approximate age?

7 A 30, probably around 35, 36, somewhere in that
8 neighborhood.

9 Q And you said that you might have seen his
10 application?

11 A Yes.

12 Q Do you have it? Do you have a copy of his
13 application?

14 A I have to look. I don't know -- remember I
15 have a copy or not.

16 Q Did you ask anybody why you weren't promoted,
17 the reason why you weren't promoted?

18 A No, I didn't ask.

19 Q Did anyone tell you, give you a reason why you
20 weren't promoted?

21 A No.

22 Q Do you believe that the reason that you weren't
23 promoted in 2003 was because of discrimination?

24 A No, but I believe that case already set for
25 Mr. Henry Orozco, because Mr. Henry Orozco had the EEO

1 complaint on Mr. Keith Inouye that Mr. Keith Inouye put
2 the hand on him. That's a possible mediation
3 settlement, or EEO settlement, that we all know around
4 the driver that Mr. Keith Inouye put the hand on him,
5 put the hand, that mean have some kind of fight.

6 Q So you believe that Mr. Inouye had a fight with
7 Henry Orozco?

8 A Yes.

9 Q And there was an EEO complaint related to that?

10 A I believe, yes.

11 MS. WANG: Why don't we take a break here and let
12 the tape get switched.

13 THE VIDEOGRAPHER: This marks the end of DVD number
14 one in the deposition of Jeffrey Tam.

15 Going off the record. The time is 11:07 a.m.

16 (Recess taken.)

17 THE VIDEOGRAPHER: Here marks the beginning of DVD
18 number two in the deposition of Jeffrey Tam.

19 Going on the record. The time is 11:20 a.m.

20 Please begin.

21 THE WITNESS: I thought -- let me clarify a little
22 bit about the deposition. I think I have one before, a
23 dozen years ago, involve accident driving a postal
24 truck.

25 MS. WANG: Okay.

1 selected for this promotion was because of
2 discrimination against you?

3 A I wasn't thinking about this one.

4 Q Okay.

5 A No, I wasn't thinking -- well, that's the one,
6 that -- because that's sole purpose for the settlement.
7 And they actually set up that position for that purpose
8 and that purpose only.

9 Q So you believe that the reason that you weren't
10 selected for this promotion was because it was actually
11 set up to provide a promotion to Henry Orozco?

12 A Yes. "Orozco."

13 Q "Orozco," okay.

14 Did you ever file an EEO complaint about any of
15 these promotions that you did not receive?

16 A No.

17 Q Okay.

18 A I think I commented maybe too late or way past
19 that 45-day limit; and I wasn't thinking. That's all.

20 Q So you didn't file --

21 A I did not file --

22 Q -- an EEO complaint?

23 A Before I didn't want to break the relation, but
24 the last time I wasn't -- yeah. I wasn't even think
25 about it.

1 Q When was the first time you filed an EEO
2 complaint?

3 A In the schedule, 2003, because that hurt me
4 bad. I'm fight for my life.

5 Q In 2003?

6 A That time schedule. That's why I stopped
7 fighting. Basically, that's my first EEO.

8 Q Do you remember when in 2003 that was?

9 A I cannot pinpoint exactly day, but I have -- I
10 think I have a settlement. Somewhere in August -- I
11 mean -- yeah, October -- not August -- October,
12 somewhere in October in 2003, the settlement. I think
13 the settlement is August, somewhere in August.

14 Q Are there any -- are there any other promotions
15 that we haven't discussed but that you believe you
16 didn't receive because of discrimination?

17 A Say that again.

18 Q We discussed promotions for supervisor of
19 transportation, and they were posted in 1999, 2000,
20 2001, 2002, 2003.

21 Are there any other promotions --

22 A No, never --

23 Q -- that we haven't talked about?

24 A -- never thought about another one, no.

25 Q So then earlier at this deposition you had said

1 back in next morning at 10 o'clock in the morning, which
2 I lose sleep every week.

3 Q Why don't you tell me -- what was your schedule
4 like in 2002 when you made this request?

5 A Same thing, like 7 o'clock, from Saturday,
6 Sunday 7 o'clock in the morning, and Monday at 1500;
7 that mean 3 o'clock in the afternoon.

8 Q Uh-huh.

9 A And then Tuesday come back at 10 o'clock in the
10 morning; and then Wednesday 7 o'clock in the morning;
11 off Thursday and Friday.

12 The problem start with 2000 -- in 2300,
13 11 o'clock, 11:30 at night, when I go home, it's
14 probably like at midnight. I mean, we are human, and
15 not like a light. Turn the switch, and you cannot get
16 some rest. We have to wind down. It take a couple
17 hours to wind down.

18 And the problems, see, I have two kid. I had
19 to take them to school, and -- by the 7 o'clock, I had
20 to get up to take them to school, fix breakfast for
21 them, and then take them to school. Their school start
22 at 8:30. By the time I come home, about like 9 o'clock.
23 Then I had to -- 9 o'clock, I had to go to work at
24 10 o'clock. I had to get something to fix up, go to
25 work. And then I don't have enough sleep at all, maybe

1 A Yes.

2 Q But then after you became a bulk-mail assistant
3 in 2002, did you then request reassignment to become a
4 driver?

5 A Yeah, after, I did require to go back to
6 driver.

7 Q And you made that request because you didn't
8 like the hours that you had?

9 A I don't -- not don't like it or not, because
10 it's hurting me, the hours are hurting me.

11 Q How long had you been working those hours?

12 A Ever since 1999 I picked the position up there,
13 except the detail that I were acting supervisor.

14 Q And when did you first make your request to
15 switch back to being a driver?

16 A I think in May, in May 2002.

17 MS. WANG: Can I have this marked as Exhibit 3.

18 (Exhibit No. 3 marked for identification.)

19 BY MS. WANG:

20 Q Can you take a look at this and let me know if
21 you recognize what's marked as Exhibit 3.

22 A Mm-hmm. Yes.

23 Q What is it?

24 A Yeah. That's I request for go back to be a
25 tractor-trailer operator.

1 and get -- go to -- also go to -- what's the motor
2 vehicle, DMV, Department of Motor Vehicle, get them my
3 driving records, and I turned that one in also.

4 Q When did you make the request -- send the
5 request to -- the request for reassignment to --

6 A I think --

7 Q Let me just finish my question -- sorry -- so
8 we have it clear on the record.

9 When did you give the request for reassignment
10 to human resources?

11 A I think somewhere in July, July, somewhere in
12 July.

13 Q Of 2002?

14 A 2002, yeah, July.

15 Q Who did you give that request to?

16 A The manager. I can't remember --

17 Q Does Virginia Glover sound right, or "Glover"?

18 A Yeah, Virginia Glover.

19 MS. WANG: Can I have this marked as Exhibit 4,
20 please.

21 (Exhibit No. 4 marked for identification.)

22 BY MS. WANG:

23 Q Can you take a look at Exhibit 4 and let me
24 know if that's the request that you made to human
25 resources.

1 schedule.

2 Q So you don't know who in management makes the
3 decision?

4 A No, I don't know who the manager that do the
5 scheduling.

6 Q Typically, once you make a bid for your
7 schedule for the year, who do you go to when you want to
8 change that schedule?

9 A What you mean go to change it? We have no
10 power to change it. We only -- only if a manager put it
11 out.

12 But before that I talked to Mr. Keith Inouye to
13 put a request for any reason, for anybody be put that
14 bid, that way if it's a better condition that, you know,
15 the post office can provide to the employee for more
16 safe.

17 Q So do you know if anyone has changed -- anyone
18 in your unit has changed their bid -- I'm sorry, has
19 changed their -- strike that. Let me start over.

20 Do you know of anyone in your unit who has,
21 after they received their bid for the year, then asked
22 mid year to change their schedule?

23 A Nobody, but I didn't request -- you got to
24 understand what I'm saying. See, every year we had to
25 bid on that hours or the SDO they wanted, the schedule

1 they wanted. They base it on seniority.

2 When I move up there, I'm the lowest seniority.
3 I'm away from the bottom. I'm way on the bottom. Even
4 I'm have like 26 -- 20-some years, 20 years in service
5 at the time when I bid the position up there, when I bid
6 the position up there, I was way back to the bottom of
7 the seniority list on that bulk-mail assistant crew.

8 When I am a driver, I have a lot of seniority,
9 but when I go up to traffic control as a bulk-mail
10 assistant, I was way at the bottom.

11 Anybody pick before that left over, I had to
12 get the leftover. Whatever position they get that bid
13 the hour they got, I get the leftover, the last one I
14 had to get it. I had no choice but take it.

15 Q So you had the lowest seniority of all the
16 bulk-mail assistants?

17 A Yes.

18 Q So you took whatever bid was available at
19 the -- after everyone else had selected?

20 A Yes.

21 Q You had already selected or you had already
22 been given your bid for 2002 at the time that you asked
23 for reassignment to become a driver?

24 A Yes.

25 Q After you didn't -- after you didn't receive

1 changed and it wasn't changed, did you believe that the
2 reason it wasn't changed was because of discrimination?

3 A They cannot change it. If they change it, they
4 got to ruin the whole bid, because every-year process.
5 I just requested when they come up with another schedule
6 sign-up, change it for another schedule sign-up. I was
7 suggested. I didn't -- actually, I not request. I was
8 suggest that hour better.

9 Q So you didn't actually request that your hours
10 be changed in 2002, you suggested that there were better
11 hours and in -- and when you were allowed to bid again,
12 you wanted better hours?

13 A Yeah.

14 Q Okay.

15 You mentioned in 2002 that you asked for
16 reassignment because of -- because it was hard for you
17 to keep -- to maintain your schedule as a bulk-mail
18 assistant; is that right?

19 A The hour?

20 Q That the hours you had in 2002 were hard for
21 you, and so that's why you asked for reassignment to
22 become a driver?

23 A Yes.

24 Q Can you explain what you meant by it was hard
25 for you to keep those hours.

1 A See, on Monday you get off at 11:30 at night.
2 I'm lucky I'm close by. When I go home, it's about
3 midnight, 12 o'clock at nighttime.

4 Q Okay.

5 A You take a little bit snack, take a shower, try
6 to wind down to get in sleep. That at least take you a
7 couple hours to wind down and go to sleep.

8 And no later than 7:00 I had to get up -- see,
9 my wife had already hit the road to go to work --
10 because I had to send the kids to school. 7 o'clock, no
11 later 7 o'clock, I had to get up, fix breakfast for
12 them, and get them ready go to school. And the school
13 start at 8:30.

14 After I drop them off school, come home, it's
15 closer to 9 o'clock. And I had to go to work at
16 10 o'clock. So I had to get some breakfast, fix a
17 lunch, go to work at 10 o'clock. Sit down at 10 o'clock
18 for work. That's the schedule.

19 Q So it was hard for you to sleep?

20 A It's not hard. No time to sleep. Don't have
21 that much time. Maybe have two or three hours. That's
22 the most you can get in sleep.

23 Q Were there any other -- were there any other
24 difficulties that you had? Like, did you have any
25 physical problems as a result of this, of your schedule?

1 A That causes me like, you know, a loss in sleep.
2 I don't have sleep. That created a lot of stress in my
3 body.

4 Q Anything else that you can think of?

5 A I'm tired, got like a head expanding, some --
6 create like back pain, all kind of things that, you
7 know . . .

8 Q Did you see anyone about these problems?

9 A I don't remember seeing -- I see for the pain
10 that -- I don't remember exact when, but I start taking
11 aspirin, and then taking dose of Motrin or something
12 like that, you know.

13 Q Was that for sleeplessness, or was that for
14 back pain?

15 A For pain, for painkiller.

16 Q Was the painkillers -- were the painkillers for
17 back pain that resulted from your schedule or from the
18 way you were seated as part of your job?

19 A Also, the seat also -- I don't know what's the
20 exact word to create my back pain. But also that
21 counter was really high. And also when I would sit up
22 there, I almost have -- almost like standing all day
23 long, because it's so high. Because that radio, we
24 control use the foot pedal. The switches, use the foot
25 to control. So my feet -- I had to stand up. I'm

1 short. Those counter, when I sit up there, you almost
2 like up to here.

3 Q So you experienced back pain because being a
4 bulk-mail assistant required you to work at a very high
5 counter?

6 A Yes.

7 Q And it also -- being a bulk-mail assistant
8 required you to sit in a chair that was uncomfortable
9 and bad for your back?

10 A I don't know -- yeah, probably had input to it.
11 It's possible it have input to it.

12 But also sleeping, you know, I don't know that,
13 you know, what the medical -- I don't -- they have much,
14 you know, medical knowledge on that, but, you know, I
15 assume it has the input to -- to the situation.

16 Q Did you experience back pain before 2002?

17 A I don't -- I don't -- I don't remember.

18 Q And --

19 A And I don't remember that.

20 Q Did you take any prescription medications for
21 your back pain?

22 A I think it's have a Motrin, and then I -- you
23 know, every time we go like pay money, I rather buy
24 those -- also buy those aspirin that I took. I took
25 aspirin too.

1 Q Did you go to a clinic or anything like that?

2 A No.

3 Q Do you believe that the -- that you didn't --
4 you didn't get the reassignment to a driver position was
5 in any way related to your age?

6 A I don't think so. I never thought of that, no.

7 Q And do you know of anyone else who made the
8 same request to change from a bulk-mail assistant or to
9 be reassigned from being a bulk-mail assistant back to
10 being a driver?

11 A That's Norman Davis and Dennis Clark. I think
12 Debbie Nails, I think she within 90 days.

13 And recently they have a -- another driver bid
14 on the dispatch, and then he go back to driver within
15 like 90 days. So, you know, that's another case
16 recently. I think earlier -- early this year.

17 Q Do you know who that person was?

18 A I think it's Valafor [phonetic]. I don't know
19 his first name. I know it's Valafor.

20 Q What?

21 A Valafor.

22 Q Rutherford?

23 A Val- -- he's a Filipino guy. So I don't
24 remember how to spell it. It start with a V-a or
25 something. Valafor. Recently, early this year. He bid

1 the position in dispatch -- as a dispatch clerk. And
2 then he don't like the hour. He come join right back
3 within 90 days. So he resume his seniority.

4 Q So this person who switched from a dispatcher,
5 dispatch clerk position, back to being a driver earlier
6 this year, he did that -- he asked for reassignment
7 within 90 days?

8 A Yes.

9 Q And Debbie Nails, who you mentioned, she asked
10 to be reassigned to a driver position after serving as a
11 bulk-mail assistant --

12 A Mm-hmm.

13 Q -- is that right?

14 A Yes.

15 Q But she asked for that reassignment within 90
16 days?

17 A Yes. That's I know of.

18 Q And this person who you said earlier this year
19 made the switch, do you know his or national origin?

20 A Early this year. He's a Filipino.

21 Q What about Debbie Nails?

22 A Debbie Nails is African-American.

23 Q And Danny Clark?

24 A Danny Clark is African-American.

25 Q And Norman Davis?

1 A African-American.

2 Q And do you believe that Norman Davis or Danny
3 Clark were treated differently than you were?

4 A Yes.

5 Q How?

6 A Well, they are -- you know, they can go back as
7 a full-time regular, and they allow them to go back in.

8 Q Do you know what reason was given for -- what
9 reason they were allowed to switch back into a driver
10 position?

11 A That I don't know. That I don't know.

12 Q Do you believe that Debbie Nail was treated
13 differently than you?

14 A Well, this what I think they have the right to
15 go back. Right now I see the contract, you know, they
16 go by contract. They say they have to go back in 90
17 days, okay to be -- you know, regain their seniority.
18 They don't lose any seniority within 90 days.

19 Q So Debbie Nail and I guess the person who made
20 the switch from being a dispatcher to a driver earlier
21 this year, they're not in the same position that you
22 were --

23 A No.

24 Q -- when you made --

25 A They're different. They're within 90 days.

1 A Okay.

2 Q I think when we left off before the lunch break
3 we were talking about the request that you made to be
4 reassigned in 2002 to a driver position; and ultimately
5 were you reassigned to become a driver?

6 A In 2002?

7 Q Ever.

8 A No, not in 2002. I was finished training, but
9 he refused to let me go.

10 Q But after 2002 did you subsequently become
11 reassigned --

12 A In 2005.

13 Q -- to be a driver?

14 A In 2005 as a part-time flex.

15 Q And when did you -- did you -- strike that.

16 Were you reassigned in 2005 after a request
17 that you made? Did you make a new request in 2005?

18 A Yeah, in 2005. February the 2nd I put another
19 request in.

20 Q And who did you send that request to?

21 A I send it to -- actually, I send it to Chadha
22 and Keith Inouye, even the senior plant manager, Richard
23 Blancas.

24 Q And in 2005, who would have made -- who had the
25 authority to make the decision as to reassignments?

1 if you recognize it.

2 A Okay. Okay. Now, yeah, yeah.

3 Q So this is a February -- a letter that's dated
4 February 1st, 2005.

5 A Uh-huh.

6 Q Is that your signature on Exhibit 5?

7 A Yes.

8 Q So this is a letter that you wrote?

9 A Yes.

10 Q And it's a request to be reassigned --

11 A Mm-hmm.

12 Q -- as a part-time flexible motor-vehicle
13 operator and tractor-trailer operator?

14 A Yes. Okay. Let me explain this one.

15 Q And I just want to --

16 A Okay. Okay.

17 Q -- describe the Exhibit 5 and make sure it's
18 accurate.

19 And you sent this request or this letter to
20 Mr. Inouye?

21 A "Inouye."

22 Q Mr. Chadha?

23 A Chadha, yeah.

24 Q And Mr. Roberson?

25 A Roberson.

1 Q And Mr. Roberson is the union representative --

2 A Yes.

3 Q -- that you referred to earlier?

4 A Yes.

5 Q And you also sent this to Mr. Blancas, who is
6 the senior plant manager?

7 A Yes.

8 Q And you sent it to Mr. Jacobs, who is also a
9 union representative?

10 A Yes. That's -- the union recommend me to do
11 that.

12 Q Did you ultimate -- did you make another --
13 strike that.

14 After the union contacted you and told you the
15 procedures for getting the reassignment to become a
16 driver, what did you do?

17 A I go to the -- go to postal east to put in the
18 information for request for the reassignment, but the
19 resources come out prior to me, and then they inform me
20 to go to in-house exam, which is for new hiring the
21 driver.

22 Q And this is the union that informed you?

23 A That's the management told the union, union
24 told me to do it. And even they send me the letter that
25 said, well, go through the procedure later on.

1 Q Who in management told you or through the union
2 told you to go --

3 A I don't know who told the union tell me. I had
4 no contact with the management. They didn't contact me.

5 Q Do you know if it was someone from personnel or
6 from human resources?

7 A Somebody from resources send me a letter that
8 said, well, go through the postal east or something like
9 that, that -- go in the computer to check -- Internet to
10 check that.

11 Q So someone told you -- someone from human
12 resources told you to go through the Internet to do your
13 application or your request for reassignment?

14 A Yeah.

15 Q Did you ultimately do that?

16 A Yes.

17 Q Okay.

18 A And I got a score 81 on the test, on the exam,
19 whatever it is. And then later on they send me a letter
20 for interview for the job.

21 Q And after you went through the Internet
22 process, did you -- did you receive your reassignment to
23 become a driver?

24 A I don't know when, but probably so. Later on
25 September -- I mean, September 17, the order come out

1 I'm back as driver, part-time flex position.

2 Q So I'm going to --

3 Could I have this marked as Exhibit 6, please.

4 (Exhibit No. 6 marked for identification.)

5 MS. WANG: And this will be 7.

6 (Exhibit No. 7 marked for identification.)

7 BY MS. WANG:

8 Q I'm going to show you what's been marked as
9 Exhibit 6.

10 A That's the reassignment.

11 Q Take a moment to review it.

12 A (Witness complies.)

13 Q Have you had a chance to go through Exhibit 6?

14 A Yeah.

15 Q Is this a printout of the Internet application
16 that you did requesting reassignment?

17 A Mm-hmm, yes.

18 Q And --

19 A Also the internal exam.

20 Q And if you look on the last page of
21 Exhibit 6 --

22 A Yes.

23 Q -- do you see where it says: Date of
24 application, May 31st, 2005?

25 A Mm-hmm.

1 Did you ever file an EEO complaint about not
2 being reassigned in 2002 into a driver position?

3 A No.

4 Q Did you ever file a grievance with your union
5 related to the fact that you weren't reassigned in 2002
6 into a driver position?

7 A No. In two thousand -- not in 2002.

8 Q What about after 2002, did you ever file --

9 A I had one --

10 Q Let me get my question out so you know what I'm
11 asking.

12 At any point, whether or not in 2002, did you
13 file an EEO complaint related to the fact that you were
14 not reassigned in 2002 to a driver position?

15 A No, not in 2002.

16 Q And at any time did you file a grievance
17 related to the fact that you weren't reassigned to a
18 driver position in 2002?

19 A No, not in 2002.

20 Q Before the break we had talked about your
21 schedule in 2003 when you were still a bulk-mail
22 assistant.

23 A Mm-hmm.

24 Q Did you ever file an EEO complaint related to
25 your schedule as a bulk-mail assistant?

1 A In two thousand what?

2 Q At any time.

3 A The schedules -- I start file a complaint in
4 2003, yes.

5 Q Okay.

6 A That's actually my first EEO complaint.

7 Q And do you remember when you filed that?

8 A I don't remember exactly, but somewhere in -- I
9 don't know, June, July or May. I don't know.

10 Q Was that -- was that complaint resolved?

11 A Yeah. The mediation, they change it to 4:00,
12 4:30 in the morning.

13 MS. WANG: Can I have this marked as Exhibit 9,
14 please.

15 (Exhibit No. 9 marked for identification.)

16 BY MS. WANG:

17 Q I'm going to show you what's been marked as
18 Exhibit 9.

19 A Yes.

20 Q And just take a moment and review that.

21 A (Witness complies.)

22 Mm-hmm.

23 Q At the bottom of Exhibit 9 on the left where it
24 says, "Initials," left bottom, under "Counselee's," is
25 that your signature, or are those your initials?

1 A My initials, yes, the first one is initials.

2 Q Is Exhibit 9 the -- a copy of the settlement
3 agreement that resolved your EEO complaint in 2003?

4 A Yes.

5 Q And that was the -- that was the complaint that
6 was related to your schedule?

7 A Yes.

8 Q As a bulk-mail assistant?

9 A Yes.

10 Q You said that when you initially were
11 reassigned to be a driver in 2005, that you went back as
12 a part-time flexible motor-vehicle operator?

13 A Yes.

14 Q Did you -- but you are now a full-time
15 tractor-trailer operator?

16 A Now, yes.

17 Q And did you file a complaint, an EEO complaint,
18 related to your reassignment as a part-time flexible
19 motor-vehicle operator?

20 A Yes.

21 Q Did you file a grievance with your union
22 related to that?

23 A I think I have a grievance on that in the
24 matter, and then I tried to get better seniority and
25 start 2002 to end that grievance, but eventually they

1 Q And who was her supervisor at the time?

2 A Chadha.

3 Q And why do you -- why do you believe that the
4 reason that your overtime was deleted was because of
5 discrimination?

6 A I guess I'm -- he only do to me. He don't do
7 to anybody. And . . .

8 Q Do you believe that it was discrimination
9 related to your race?

10 A Yes.

11 Q Do you believe that it was discrimination
12 related to your age?

13 A I guess of my race. I didn't think of age too.

14 Q So you don't think age had anything to do with
15 it?

16 A I don't think it's the age.

17 Q Are you the only -- strike that.

18 Has Gloria ever said anything to you about your
19 race?

20 A No.

21 Q Have you had any other problems, conflicts with
22 Gloria?

23 A That issue about the delete overtime, one time
24 she called me and I took the union representative
25 Roberson with me, okay? And then Roberson told her:

1 You cannot delete Mr. Tam's time, and then we exchange a
2 couple words, and she kick us out the office. And
3 without notify me that he delete my time, but later I
4 look at the paycheck. And sometime I requested to go in
5 the computer to get the printout that say that I was
6 deleted that hour and a half.

7 Q And did you ultimately get paid for that hour
8 and a half?

9 A After the EEO complaint and then -- and
10 eventually way back, and then I got paid back on that
11 too.

12 Q So you filed an EEO complaint related to --
13 related to this overtime?

14 A Yeah. That's a part of the -- part of the EEO
15 complaint, I believe. It's not single one, but it's
16 part of the EEO complaint, the second one. And after
17 the first one that -- because I tried to amend, amend
18 it, put it back together, but they said it kind of too
19 late. So they have to advise me to file another EEO
20 complaint.

21 Q What was the outcome of that EEO complaint?

22 A Somehow they -- I was denied it by the judge,
23 and also the OFO -- OFO, something.

24 Q But were you ultimately paid for the hour and a
25 half overtime?

1 A Yes, I believe, yes, because they said they
2 track down way back.

3 Q Was that the result of a settlement?

4 A It's not a settlement, no, because I guess they
5 order -- the EEO ordered them to pay. I don't know.
6 Maybe the management, they are wrong, and eventually
7 they paid me. Maybe not the EEO decision. I think the
8 management made decision. They not supposed to take it
9 out, but I don't know exactly.

10 Q Did that -- did you -- when you were working
11 with -- under Gloria's supervision, did it ever happen
12 again that you didn't get paid overtime?

13 A No.

14 Q So then earlier this morning you also said that
15 you felt that you were discriminated against because
16 once when you were missing, they went -- someone went to
17 look for you while you were in the bathroom, but that
18 didn't happen to others?

19 A Yes.

20 Q Is that right? Okay.

21 Can you explain what you meant by that.

22 A Okay. One time I was like in the break room
23 talk to the driver, and we were -- it would be like --
24 it's about -- report on Wednesday at 7 o'clock, but at
25 7:30 Ms. Debbie Nail come down in the break room, tell

1 me, you better get up there. He said, one of the
2 assistants wanted to take a break.

3 So every Wednesday that eight hour up there, we
4 have three clerks. Only two is required, two clerk. So
5 every Wednesday at one clerk were idling them when I
6 eight hour over there working, the whole eight hours.
7 Because at the time we only have three hookup for the
8 radio. Two are the clerk; one is the supervisor to hook
9 up the radio and monitor the driver. And every
10 Wednesday they're eight hour out there.

11 Q But I'm not sure I understand.

12 A Okay.

13 Q So when you were missing, what exactly led to
14 someone coming to look for you?

15 A Okay. The 30 minute, okay, the 7:30 she come
16 down the break room.

17 Q Who is she?

18 A Debbie Nail, the acting supervisor.

19 Q Was she your supervisor at this time?

20 A Yes.

21 Q When did this happen?

22 A I cannot remember exact day. Somewhere in
23 2005. I cannot remember exact day. And the second day,
24 same thing. I was in the bathroom, and he come out the
25 door yelling, Tam.

1 even look. Sure didn't look.

2 Q Once -- once Debbie Nail on these two occasions
3 that you mentioned found you, what did she say to you?

4 A She said, "Get up there. They need to take a
5 break."

6 Q So she wanted to find someone because another
7 person was going on break, and so she needed another
8 assistant out there?

9 A They have another assistant up there too.

10 Q And Mr. Scott, once he found you the time that
11 you mentioned earlier when Mr. Scott found you, what did
12 he tell you to do?

13 A He said get -- get my ass up there.

14 Q So he told you to go back to work?

15 A Yeah, go up there to work. I was starting. I
16 start at 4 o'clock. 4:00 -- I think 4:20 he come down
17 to look for me.

18 Q So on these three occasions when -- once when
19 Mr. Scott was looking for you and the other two times
20 when Debbie Nail was looking for you, you were on duty?

21 A Yes. See, the driver for whole -- the other
22 clerk for whole year, ever since this started in 2005,
23 every day I up there I know of it's 10 o'clock. He
24 supposed to report at 9 o'clock.

25 Q Okay.

1 A Never look for him. Never mentioned him.

2 Q And Mr. Scott, when he went to look -- strike
3 that.

4 Why do you think that Mr. Scott went to look
5 for you because of a -- because of a -- because of your
6 race?

7 A I don't know how -- what you mean. Me don't
8 think that way. I'm Chinese and they look for me. They
9 are African-American. And it's not only one occasion
10 happen like that. Every -- I know it's ever since 2005
11 it started, up to the day I left the traffic control go
12 back to drive. Every day or every time I know of it.

13 Q Do you think that this was related -- that
14 Mr. Scott's -- these occasions that you've described
15 with Mr. Scott and Debbie Nail, were they related to
16 your age at all?

17 A I don't think about age. I think it's race,
18 you know.

19 Q Did you ever file an EEO complaint related to
20 Mr. Scott or Ms. Nail's actions?

21 A I think I remember just in that complaint too.
22 I don't remember that. I thought it's in the complaint.

23 Q Do you remember what the outcome of your EEO
24 complaint was?

25 A Told you the judge did go against me. They

1 A Mm-hmm, from the driver.

2 Q -- from a driver, and then when you tried to
3 give the message to Debbie Nail, you had -- you had like
4 a brief argument?

5 A Yeah. After she finish the phone, I give the
6 piece of information, and then I said, "What's the
7 matter? You cannot handle the pressure," and exchange a
8 few words.

9 Q Did you say that to her, that she couldn't
10 handle the pressure?

11 A Yes, I said it to her.

12 Q And why do you think that there was some type
13 of discrimination involved in this incident?

14 A Because there's another story. Then I say
15 after a few exchange, I say, F you. I'm not going to do
16 it anymore. I said, I do my side of work. I said if
17 any driver call, I'm not going to answer anymore. And
18 then she tried to discipline me by saying F it. I was
19 out of frustration to say the word, okay?

20 Q So you're saying that -- I'm sorry. I'm not
21 quite sure I understand.

22 So you're saying that in this argument, you
23 both used profanity towards each other?

24 A No, no. Just I say F it. Okay. She didn't
25 say.

1 Q You're saying F it, is that what you're saying?

2 A Yes, F it. I'm not -- no. You, but I said F
3 it. Just out of frustration, I said, from now on, I do
4 my side of work. Any driver call, I'm not answer,
5 because I'm only required do one job, the jockey move,
6 okay? After that she tried to give me a just cause,
7 tried to discipline me, but eventually didn't go
8 through, but the point is after years, not only one
9 time, after she was a supervisor, every time she say,
10 "Fuck you, Chinaman."

11 Q So she tried to discipline you after this -- on
12 this occasion?

13 A Yeah.

14 Q But you didn't get disciplined?

15 A No, I didn't get disciplined, because didn't go
16 through.

17 Q What do you mean by it didn't go through?

18 A But they only give me just cause, but that's
19 it. They never take any action.

20 Q What do you mean by they gave you a just cause?

21 A Just cause mean try to discipline. More like a
22 small court or whatever, you know.

23 Q That Debbie Nail tried to discipline you?

24 A Yeah, Debbie Nail and Henry Orozco, and there
25 have a -- union have a Kenny Mitchell in there.

1 Q But you were ultimately not disciplined?

2 A No. But what my point is he say -- she say it
3 to me for years, even if she a supervisor, when we play
4 domino on the job at noontime, she lost.

5 Q How often would you say -- so you're saying
6 that she called you a Chinaman?

7 A They called me many times, in front of the
8 people.

9 Q And how often?

10 A She usually be -- when I working at 2:00, 3:00,
11 Monday, she come up, she was -- in that time she was on
12 light duty. She don't work at all, just watching TV,
13 you know, because of this. I get to work, he was
14 sitting there, sometimes she got bored and playing
15 domino with me. She lost and then use the word for me.

16 Q When did she become your supervisor?

17 A I think two -- I think 2005. That's why I
18 working start 2:00 or 3:00. Basically, I'm only think
19 before -- before 2005 I work in at -- every Monday I
20 work at 2:00, 3:00. Start at 1500, that's at 2:00 or
21 3:00, okay? Every Monday, sometimes you come up here.

22 Q Once she became your supervisor, how frequently
23 did she use this phrase towards you?

24 A I think quite a few days. I think when slow
25 down, nothing to do, the driver slow down, we play

1 domino. When she lost, you know, either she pissed off.

2 Q So she used this phrase mostly when you were
3 playing dominoes?

4 A Yes.

5 Q Did you hear her -- I guess, could you estimate
6 how often you would hear that phrase?

7 A Quite often. Usually it would be every Monday.
8 He not only just say to me. Initially she say to me,
9 but when she was clerk -- when he was on light duty, she
10 even say it in front of the supervisor, another
11 supervisor, another clerk.

12 Q So that was when she wasn't your supervisor --

13 A Yes.

14 Q -- that you're referring to?

15 A Uh-huh.

16 Q Did she ever refer to your age in any way?

17 A No.

18 Q Can you think of any other occasions where you
19 believe that you were discriminated against?

20 A One time they were AWOL me. And then ever
21 since that I request -- see, the thing's on my schedule,
22 Wednesday, Wednesday I come in at 7 o'clock in the
23 evening. I get off Thursday, Thursday, 3:30 in the
24 morning, okay? And Thursday I had to report at 1500
25 hour. And 3:30 -- when you get home like 4 o'clock in

1 the -- but, see, the thing is that all those 1990 I'm
2 starting too right there. I've been doing the same
3 thing, but the superior pain start in 2005. That
4 schedule starting that make me hurt more on that thing,
5 because, you see, starting in 1999 up to like 2004, and
6 then started in 2005 the schedule really killed me.

7 Q And do you know of anyone else, any other
8 bulk-mail assistant, who asked for a scheduling change
9 and didn't receive it? I'm sorry. Strike that.

10 Do you know of any other bulk-mail assistant
11 who asked for a scheduling change and did receive a
12 schedule change?

13 A They don't need to require -- they start --
14 they steady, starting time the same every day.

15 Q But my question is do you know of anyone who
16 was a bulk-mail assistant who made a request similar to
17 yours, in that they wanted to change their schedule, and
18 they received the schedule change that they wanted?

19 A No. I don't see anybody request for change.
20 They don't need to request a change, because they
21 starting the same time every day except me, five
22 reporting time.

23 Q And I want to bring your attention, again, to
24 Exhibit 2, to paragraph 3 of that exhibit. And here
25 you've stated, "On January 27th, 2005, complainant's

1 request for annual leave from February 9th to 11th, 2005
2 was denied."

3 Did I read that correctly?

4 A Yes.

5 Q Do you believe that this request for annual
6 leave from February 9th to 11th of 2005 was denied
7 because of discrimination?

8 A Yeah, because -- my supervisor approve it for
9 me to celebrate a Chinese New Year, because they already
10 have people assign. My seniority low, and then -- it's
11 the time for me, it's a -- culturally, it's important to
12 me. And she was approve it, and Chadha just disapprove
13 it. Not only disapprove it, he tear up my -- he tear up
14 my annual request.

15 Q So who was your supervisor at this time?

16 A Debbie Nail.

17 Q So Debbie Nail had approved your request for
18 leave for Chinese New Year?

19 A Yes.

20 Q And then it was denied by Mr. Chadha?

21 A Yeah. And he tear up my 7971; that was a leave
22 request.

23 Q So you initially submitted your request to
24 Debbie Nail?

25 A Yeah.

1 examiner, and then he print out the weekly schedule,
2 base it on the order annual request.

3 Q Mr. Morris, what's your interaction with him?
4 How often do you see him?

5 A Well, sometimes we run into each other, but the
6 one time he were doing the schedule in 2004, somewhere
7 like October, he been -- ever since he have that job, he
8 been making mistake, so I -- I talked to my
9 supervisor -- at that time were Henry Orozco -- that I
10 wanted that they be collected, they make a month and
11 days, and collect. So I want to fight a good overtime
12 issue. I want that they be collected. He was mad.
13 Come up here -- it don't make no difference, but it's a
14 mistake, it's a mistake. It's a difference. When you
15 find a good one, you got to have exactly month and days
16 and years.

17 Q Do you believe that Mr. Morris made a mistake
18 on your schedule because --

19 A It's not on my schedule. On the day, the
20 month. That week schedule, we had the weekly schedule
21 for all driver, bulk-mail assistant.

22 Q So Mr. Morris made a mistake on the bulk-mail
23 assistant schedule for the month?

24 A Yes.

25 Q And did it relate -- did that scheduling error

1 relate to you in any way?

2 A Ever since then they even -- they even don't
3 give out the weekly schedule on -- in the
4 traffic-control office.

5 Q But my question is did that mistake on the
6 schedule that Mr. Morris made in 2004, did it relate to
7 your schedule?

8 A It's not relate my schedule, relate to
9 verifying agreements because of overtime issues, because
10 they schedule other people instead of me that, you
11 know -- see, the overtime supposed to be based on
12 seniority and rotation. So -- and somehow I wanted to
13 make a copy on that issue to make a -- file a grievance
14 on that.

15 Q So I guess I don't understand.

16 How did Mr. Morris's mistake on the 2004
17 schedule affect you?

18 A So I just want to file a grievance. I want
19 exactly days and the month, exact month. All he do is
20 change the month.

21 Q Was your grievance related to Mr. Morris?

22 A No. Related to my overtime. I want to make a
23 correction on the month.

24 Q So you wanted to make a correction to a
25 schedule that Mr. Morris created; is that right?

1 A He's the supervisor. He's the 204-B.

2 Q And when you said that he, you know, scheduled
3 your overtime in a way that you didn't approve of, do
4 you believe that that was because of your race?

5 A It's hardly to make me not believe it. The
6 other clerk, two clerk, they scheduled for seven days.
7 They -- three of them there, like Morris and William
8 Joe -- I mean, William Jones, and Barbara Daley, they
9 all African-American. It's hard to make me not believe
10 it.

11 Q Has Mr. Morris ever mentioned anything to you
12 either directly or indirectly about your race?

13 A No.

14 Q Has Mr. Morris ever said anything to you about
15 your age?

16 A No.

17 Q What's your best estimate of how frequent your
18 interactions are with Mr. Morris?

19 A I don't interact with. If I any problem, I go
20 to the union and file a grievance. That's all. I don't
21 really need to talk to him, but, you know --

22 Q Have you ever filed a grievance against
23 Mr. Morris?

24 A I don't file against him. I file against the
25 overtime. That, you know --

1 Q Have you ever brought an EEO complaint related
2 to Mr. Morris?

3 A No, not that issue.

4 Q And about how often do you talk to Mr. Morris
5 directly?

6 A Not often.

7 Q I'm going to -- I want to bring your attention
8 back to Exhibit 2. And in paragraph 4 of your amended
9 complaint it states, "On February 12th, 2005, management
10 did not call complainant in for overtime."

11 Can you describe what you meant by that?

12 A I see that when I come to work that supervisor
13 only by himself there. They have -- that have happened
14 before that -- and the supervisor, same supervisor,
15 he -- one time he call me --

16 Q Who is -- I just want to clarify who is your
17 supervisor?

18 A Lucas, Paulk Lucas.

19 Q P-a-u-l-k?

20 A Yeah.

21 Q And what is his first name?

22 A Lucas.

23 Q Lucas?

24 A Yeah.

25 Q Okay.

1 instruction to Mr. Paulk because of your race?

2 A Yes.

3 Q Why do you believe that?

4 A Because it's the same in other instance. The
5 same thing, another supervisor call me in, and he call
6 him at home, this and that. He don't bring me in for
7 four hour anymore, but allow me to come in at 2:00 to
8 relieve him to take a break, take a lunch break.

9 Q Who was this other supervisor?

10 A That's Billy Connor, another 204-B. He
11 transferred to another state.

12 Q And do you know of any other bulk-mail
13 assistant who has been called in for overtime without
14 Mr. Chadha interfering?

15 A Not I know of.

16 Q Were you paid the overtime for February 12th,
17 2005?

18 A No. I wasn't called in.

19 Q Oh, you didn't actually work --

20 A No.

21 Q -- the overtime on February 12th, 2005?

22 A No.

23 Q Is that right?

24 A Yeah.

25 Q Okay.

1 A Well, they said they had a no-call-in policy.
2 He make that policy.

3 Q So --

4 A He --

5 Q So the reason that you were given about why you
6 couldn't be called in was because there was a policy
7 that Mr. Chadha had?

8 A That's what I heard the supervisor say, that he
9 had a no-call-in policy.

10 Q What is your understanding of the no-call-in
11 policy?

12 A That he -- I don't know why he can represent
13 the management and the labor, labor union to make the
14 agreement that override the national agreement.

15 Q So what is your understanding of the no-call-in
16 policy? What is your understanding of what that policy
17 means?

18 A What you mean?

19 Q What is the policy?

20 A The no-call-in policy?

21 Q Right.

22 A That mean he no call in, but the national --

23 Q Let me just make sure I understand what you're
24 saying: There is a policy that Mr. Chadha has that
25 applies to everyone that says -- or all the bulk-mail

1 assistants, and that is that you cannot be called in for
2 overtime; is that what you're saying?

3 A That's what I heard. And that required -- in
4 the document request that you provide me one, that he
5 instruct the supervisor not call in.

6 Q So it's a policy that Mr. Chadha has that
7 relates to all the bulk-mail assistants?

8 A I guess over all the motor vehicle, but which
9 is violate the contract. The contract, he cannot make
10 the policy to override the national agreement.

11 Q So it's a policy that applies to all of the
12 motor-vehicle-craft workers, so everyone who works in
13 that unit?

14 A Okay. The point is that --

15 Q Can you answer my question.

16 A I understand that. I understand that.

17 Q I'm not asking at this point -- I just want to
18 clarify. I'm not asking whether or not it violates a
19 different policy.

20 A Okay. Okay.

21 Q I want to understand what the no-call-in policy
22 means, who it applies to.

23 A I assume to everybody.

24 Q Everybody, you mean everyone in the
25 motor-vehicle-craft unit?

1 involved in any EEO before that, this 2003 EEO. This is
2 my first EEO I know of.

3 Q Do you believe that Mr. Chadha has retaliated
4 against you in any way for any EEO complaint that you've
5 filed?

6 A Yeah.

7 Q How?

8 A Look at the 2005 schedule. In 2004 -- 2003
9 schedule, he create that. I have an EEO that. And
10 follow that EEO complaint, because he don't pay me the
11 overtime that he do to me, and then I filed an EEO, and
12 also involved with the -- the -- the -- the -- that OFC
13 or something like that.

14 Q So you believe that Mr. Chadha, in setting up
15 your 2005 schedule, set it up to retaliate against you
16 for prior EEO complaints?

17 A Yes.

18 Q Which EEO complaints?

19 A 2003 and the EEO followed that for the
20 overtime, the mediation that settle for him for pay me
21 for overtime in the 30 day, which he still refused to
22 pay me after the mediation.

23 Q Any other -- is there any other type of
24 retaliation that you believe that you've experienced for
25 filing an EEO complaint?

1 A That's all I know of. Like, you know, even
2 right now.

3 Q Okay.

4 A Even right now they still harassing me.

5 Q So let's talk about what you meant by
6 harassment in Exhibit 2, paragraph 8. When -- what
7 harassment are you referring to?

8 A Like they come to get me like 30 minute late.
9 Like Morris, when I complain about the schedule, they
10 don't even take out the master schedule; don't put in
11 there anymore. Like when I say something to Debbie
12 Nail, F it, they try to discipline me when all the year
13 she say it to me.

14 Q Anything else?

15 A Even like recently that I have an accident,
16 little bit slight scratcher, and they tried to put me on
17 immediate training after -- it's about eight-hour
18 course. They only put me in less than hour and a half.
19 When I come back, take out the dispatch after they
20 rushed me out to driving. Mr. Paulk tell me to go out
21 to take out another mail, to come back before my regular
22 dispatch.

23 I told him "Look, let me -- I don't want to
24 rush, you know. Let me do my own dispatch." And they
25 said, no, they have to -- I have to -- make me go. I

1 said, "No, you're stressing me out."

2 Q Any other types of harassment?

3 A Like same thing, like recently, that I was tell
4 them I'm on medication. They will yell at me, "You go
5 home or take annual leave."

6 Q Anything else?

7 A And when I told them -- after ten hour working,
8 and I don't have to go -- but usually I go, but this
9 case he want me drop one and go the other way, and go
10 another place to pick one up that will postpone my lunch
11 hour. And I told him, "Look, let me take a lunch right
12 now," because the regulations say after six hour if the
13 driver want to take a lunch, they have the right to take
14 a lunch.

15 But the supervisor tried to discipline me by
16 bring me to Chadha, told me, you know, I don't follow
17 his order to go to the place. I just tell him, "Look,
18 that's my right." Besides, I'm diabetic. When my sugar
19 down, I have to put the insulin.

20 Q So is there any other occasion that you can
21 think of of harassment?

22 A Not right now. All of a sudden I don't
23 remember. That's all I remember right now.

24 Q Let's go back to each of them that you've
25 described. You said first that you -- that they had

1 come out to get you when you were late.

2 Are you referring to what you described earlier
3 during the deposition when we talked about Debbie Nail
4 and Mr. Scott trying to find you --

5 A Yes.

6 Q -- when you were -- when you were missing?

7 A Yes.

8 Q When you said that Mr. Morris harassed you by
9 taking away the master schedule after you pointed out a
10 mistake in his schedule, how did that -- how did taking
11 away the master schedule affect you?

12 A So we don't have the information to get -- get
13 in hand to the people -- you know, that mean we can look
14 at a schedule.

15 Q So you mean that there used to be a master
16 schedule that was provided to everyone; a copy was
17 provided to everyone?

18 A No, not a copy. In the office, the whole set
19 of them, for years.

20 Q So there used to be a master schedule that was
21 available in Mr. Morris's office?

22 A No. In the traffic office. The office that we
23 work in.

24 Q And now that schedule is not available to
25 anyone?

1 A It's not available for us in the traffic
2 control, but they have -- still have it on the dispatch
3 office, but in the different building. They're required
4 to have another one too for years.

5 Q And so the master schedule not being put up in
6 the office anymore makes it more difficult for you to
7 keep track of your schedule; is that what you're saying?
8 How are you affected by Mr. Morris --

9 A Well, it's not really --

10 Q Let me just finish my question.

11 How are you affected by Mr. Morris not putting
12 up the master schedule in the office?

13 A What? Inconvenient me or something? Is that
14 what you said?

15 Q I'm asking you -- okay.

16 So you've said that one form of harassment
17 is -- that you've experienced is that Mr. Morris took
18 away a master schedule that used to be posted in the
19 office.

20 A Mm-hmm.

21 Q Is that right?

22 A Yes.

23 Q And I'm asking you how has that affected you?
24 How does that impact you?

25 A It's not much impact on me.

1 Q So Mr. -- so what you're describing is that
2 your supervisor, who was Mr. Paulk at the time, required
3 you to go to the Regatta?

4 A Mm-hmm.

5 Q After you had had an accident?

6 A A few days ago. I have accident few days ago.

7 Q Was he asking you to do something that is
8 outside your normal duties as a driver?

9 A Yes, yes -- well, you know, it's still driving,
10 but instead -- you know, make me be late to my own
11 dispatch. So I want -- I don't want to rush back and
12 then in a way, mistake happen, another accident, so I
13 don't want that happen.

14 Q So it's not outside your -- it's not outside
15 the duties that you have as a driver to go -- to be told
16 to go to the Regatta?

17 A It's not that. Everybody have their own
18 dispatch.

19 Q What do you mean by dispatch? What do you mean
20 by dispatch?

21 A Dispatch is your assigned -- the route you go.

22 Q Okay. Okay.

23 A Okay? And I start at 4:15. 4:45 I supposed to
24 go to the station, Berkeley station. So, you know, by
25 the time I report, it be like 4:20, 4:30. If I go to

1 Regatta, take you another 45 minutes. You be late, you
2 know, for my own dispatch.

3 Q Okay.

4 A And then you try to be hurry and catch up, you
5 know, easy to make mistake. So I said, "I'm kind of
6 nervous, you know. Let me take it easy and do my own
7 dispatch."

8 Q And you also talked about being yelled at when
9 you wanted to take medication or because you were taking
10 medication?

11 A Yeah.

12 Q Who yelled at you?

13 A One of the Saturdays, Duffy, James Duffy.

14 Q James Duffy?

15 A Yeah.

16 Q Is he your supervisor?

17 A Yeah, he's a supervisor transportation.

18 Q Is he your supervisor?

19 A He's not my assigned supervisor, but, you know,
20 he working in tour three.

21 Q And what exactly happened?

22 A I told him, look -- he come in, he tell me to
23 take a load to like Fremont or something. And I said,
24 "I'm on lunch. I'm going to take a lunch. I took a
25 medicine." He said, "You're on medicine? You go home."

1 You take annual leave or sick leave. Come at me twice
2 on that.

3 I said, "You want me to go, I go. Let me
4 finish my lunch, I go, you know."

5 Q Did --

6 A He said, "Oh, you're on medicine, you don't go.
7 You go home."

8 And the same thing like that --

9 Q Were you required to go home on that occasion?

10 A No, I don't require to go home, but, you know,
11 he said -- I told him, "Look, if you want to remove me,
12 you remove me. I'm not going to cut myself."

13 Q So that's what I'm asking you. Did he remove
14 you --

15 A No.

16 Q -- and require you to go home?

17 A No, he didn't, but he say it.

18 Q Did he discipline you in any way?

19 A No.

20 Q And when did that occur? What was the --
21 approximately around what time? What day? Was that
22 this year?

23 A I don't remember exactly, but it was Saturday.

24 Q Was it this year?

25 A Yeah, this year. I think it's last month or

1 something.

2 Q Okay.

3 A Because I have the medicine not long ago.

4 Q And then you mentioned a third occasion
5 where -- oh, actually, I think this was the same
6 occasion, okay.

7 So on -- on this day when James Duffy spoke to
8 you, do you believe that he -- he asked you to go home
9 because of your race in any way?

10 A No, I don't think so. It's just a harassing
11 me. That's all.

12 Q So do you believe that this harassment that you
13 experienced was related to your race?

14 A That I don't know.

15 Q Has Mr. Duffy ever mentioned to you your race
16 or said anything to you about your race?

17 A No.

18 Q Has he ever said anything to you about your --
19 about your age?

20 A No.

21 Q And what about Mr. Paulk, do you believe that
22 his asking you to go to the Regatta before doing your
23 dispatch was related to your race?

24 A That I don't know, but he sent another driver
25 to go to take the dispatch. If that mail so important,

1 A 2005, 2003. 2003 is inhuman. They have
2 operation. Like --

3 Q So just those two schedules, the 2003 and 2005
4 schedules, or are you referring to something in addition
5 to that?

6 A The schedule after that. Even 1990 -- all the
7 schedule up there. They're inhuman.

8 Q I'm trying to figure out what schedules you're
9 specifically referring to.

10 What schedules do you believe are a human-right
11 violation?

12 A All my schedule, all my schedule.

13 Q All your schedules as a bulk-mail assistant, or
14 all your schedules, period?

15 A All my bulk-mail -- all my bulk-mail assistant
16 schedule.

17 Q Did you file a grievance related to any of the
18 violations of the -- the collective bargaining
19 agreement?

20 A No. Actually, I learn after -- I don't -- we
21 normally don't have that national agreement. Only shop
22 steward and the supervisor have it. Usually the craft
23 member, they don't have it. And after I file the EEO
24 and ask question, the shop steward went in and give me
25 one extra and let me study it. That's why I filed all

1 the -- all the violation on there.

2 Q So you didn't --

3 A I didn't know that.

4 Q -- file anything related to these violations of
5 the collective bargaining agreement through your union
6 or through the Postal Service?

7 A No.

8 Q And what about the human-rights violation that
9 you allege that we just discussed, did you file any
10 grievance related to those violations?

11 A I didn't file before. So I filed on this
12 complaint, on this lawsuit.

13 Q So this lawsuit is the first time that
14 you've --

15 A Yeah.

16 Q -- articulated any human-rights violation?

17 A Yes.

18 Q Okay.

19 A I also put in hate crime too.

20 Q Has Frank -- Frank Taylor was your supervisor
21 at some point when you were a bulk-mail assistant?

22 A Yes.

23 Q That was approximately from 1999 to like 2004?

24 A Somewhere in there, yes.

25 Q Has Mr. Taylor ever referred to your race or

1 STATE OF CALIFORNIA)

2)

3 COUNTY OF SAN MATEO)

4 I hereby certify that the witness in the
5 foregoing deposition of JEFFREY TAM, was by me duly sworn
6 to testify to the truth, the whole truth and nothing but
7 the truth, in the within-entitled cause; that said
8 deposition was taken at the time and place herein named;
9 that the deposition is a true record of the witness's
10 testimony as reported by me, a duly certified shorthand
11 reporter and a disinterested person, and was thereafter
12 transcribed into typewriting by computer.

13 I further certify that I am not interested in
14 the outcome of the said action, nor connected with, nor
15 related to any of the parties in said action, nor to
16 their respective counsel.

17 IN WITNESS WHEREOF, I have hereunto set my hand
18 this 26th day of December, 2007.

19
20  -----

21 CARYE C. TORRES, CSR #10685

22 STATE OF CALIFORNIA

23

24

25

U. S. Postal Service ROUTING SLIP		Office or Room No.	<input type="checkbox"/> Approval <input type="checkbox"/> Signature <input type="checkbox"/> Comment <input type="checkbox"/> See Me <input type="checkbox"/> As Requested <input type="checkbox"/> Refutation
To:	Mr. Tawney		
1			
2			
3			<input type="checkbox"/> Read and File <input type="checkbox"/> Necessary Action <input type="checkbox"/> Investigate <input type="checkbox"/> Recommendation
4			
5			<input type="checkbox"/> Prepare Reply <input type="checkbox"/>

Date: 5/28/02

Remarks:

I request to return
to be a tractor-trailer
operator and I thank
you for your arrangements

[Signature]

ITEM 0-13, April 1998 (Additional Remarks on Reverse)

U. S. Postal Service ROUTING SLIP		Office or Room No.	<input type="checkbox"/> Approval <input type="checkbox"/> Signature <input type="checkbox"/> Comment <input type="checkbox"/> See Me <input type="checkbox"/> As Requested
To:	Mr. Paul		
1			
2			
3			<input type="checkbox"/> Read and File <input type="checkbox"/> Necessary Action <input type="checkbox"/> Investigate <input type="checkbox"/> Recommendation
4			
5			<input type="checkbox"/> Prepare Reply <input type="checkbox"/>

Date: 5/28/02

Remarks:

I request to return
to be a tractor-trailer
operator and I thank
you for your arrangements

RECEIVED
FEB 3 2005
MAILER
TRAIN & NETWORK
CENTRAL CO

EXHIBIT 3
WITNESS J. TAVN
CONSISTING OF 1 PAGES
DATE 12-12-07
BEHNIKE REPORTING & VIDEO SERVICES

[Signature]

First

ITEM 0-13, April 1998 (Additional Remarks on Reverse)

EXHIBIT 11
 WITNESS J. Tam PLTE
DEFT
 CONSISTING OF 1 PAGES
 DATE 12-12-07
 BEHMKKE REPORTING & VIDEO SERVICES

Virginia Glover
 Manager, Human Resources

I am Jeffrey Tam, my current ^{PERSONNEL #02-441513-06} position is
 Bulk Mail Assistants at Transportation net work.
 Before that. I was tractor-trailer operator
 in the same unit.

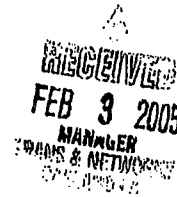
Because of my personal reason that
 I want to be reassign to be tractor-
 trailer operator again. Since there are
 residual vacancies that I hope I could
 bid on one of the position.

I thank you for your arrangement.

Jeffrey Tam First

● 1F-946-0004-05

February 1, 2005



Keith Inouye, Manager Transportation & Networks
Balvinder Chadha, Network Administrator
Bernard Roberson, Shop Steward

I request to be reassigned as a Part-Time-Flexible Motor Vehicle Operator and Tractor
Trailer Operator, per Article 39, Collective Bargaining Agreement.

This is my second request (Please see attached).

EXHIBIT 5 PLTE
DEFT.
WITNESS J. Tam
CONSISTING OF 1 PAGES
DATE 12-12-07
BEHMKER REPORTING & VIDEO SERVICES


Jeffery Tam
Bulk Mail Assistant

attachment

cc: RICHARD J. BLANCKS - SENIOR PLANT MANAGER
FRED JACOBS - PRESIDENT APWA LOCAL 78

Exhibit 4
Page 1 of 4

Instructions: Complete the following form to submit your reassignment request. Each request can only be for one district and up to five offices and positions within that district. Requests for multiple districts must be submitted as separate requests.

Note: Employees who receive a reassignment will be accepting a position as a PTF except for some maintenance and automotive mechanic positions.

- - You must enter a supervisor name OR
- - You must select a supervisor name from the drop down and click the select button.
- First Position - You can not submit a reassignment request to your current office.

* Denotes Required Field

☐ **Employee Name:** TAM, JEFFREY W
☐ **Employee ID:** 03163160
☐ **Employee SSN:** XXX-XX-3269

EXHIBIT 6 **PLTE DEPT.**
WITNESS J. Tam
CONSISTING OF 4 **PAGES**
DATE 12-12-07
BEHMKKE REPORTING & VIDEO SERVICES

This is your official address on file. You can change your address for this request, however, it will not change your official address. Please contact your local personnel office if there are official changes.

☐ *** Home Address:** 408 YORKSHIRE RD
☐ *** Home City:** ALAMEDA
☐ *** State:** California ☐
☐ *** ZIP Code:** 94501
☐ **ZIP+4:** 6041 (optional)
☐ **Email Address:** (optional)
☐ **Daytime Phone Number:** (optional)

☐ *** Supervisor Name:** BENAVIDES, GLORIA V ☐ **Select**
 OR

☐ *** Supervisor Phone Number:** (510) 874-8243
☐ **Current District:** Bay - Valley District
☐ **Current Office:** OAKLAND PROC/DIST CTR
☐ **Current Position:** VEHICLE OPRNS ASST BULK MAIL, Level 06

☐ City: OAKLAND☐ State: CA☐ ZIP Code: 94615☐ ZIP+4: 9994☐ Enter on Duty Date: 12/27/1980☐ Seniority Date: 12/27/1980☐ Months at Current Location in Present Craft: 18 or more☐ Pay Location: 068☐ Driver License Number: [REDACTED] (optional)☐ Driver License State: California (optional)☐ Driver License Expiration Date: 06/09/2007 (mm/dd/yyyy) (optional)☐ Qualifying Exams: Class-A (optional)

Click the buttons below to search for positions. Office(s) and position(s) should be selected in order of preference. Each request can only be for one district and up to five offices and positions within that district. Requests for multiple districts must be submitted as separate requests. You must specify an office and position when requesting a reassignment.

☐ * District: Bay - Valley District **First Choice:**☐ * Office: OAKLAND PROC/DIST CTR (CA) ☐ * Position: TRACTOR TRAILER OPERATOR, LEVEL 07**Second Choice:**☐ Office: ☐ Position: You must first select an Office.

Third Choice:

Choose from Office Listing



Office:

Select Office



Position:

You must first select an Office.

Fourth Choice:

Choose from Office Listing



Office:

Select Office



Position:

You must first select an Office.

Fifth Choice:

Choose from Office Listing



Office:

Select Office



Position:

You must first select an Office.

Privacy Act: Please read the following.

The collection of this information is authorized by 39 USC 401 and 1001. This information will be used to process your request for reassignment. As a routine use, the information may be disclosed to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the USPS is a party

If you are not finished with the request and want to complete it later, click the following button to save the request as a draft.

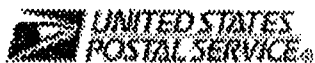
Save Draft

If you would like to delete this request, click the following button.

Delete Draft

If you would like to submit this request to the district where you requested reassignment, click the following button.

Submit



[Home](#)

JEFFREY TAM

Announcement Number: 118277

Date of Application: 5/31/2005

Based on your responses to the assessment questionnaire, you have received an eligible rating of 81 for a Motor Vehicle Operator position. You will receive the results of your assessment within the next couple of weeks. Thank you for applying.

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September 16, 2005

JEFFERY TAM
408 YORKSHIRE ROAD
ALAMEDA CA 94501

EXHIBIT 8
WITNESS J. Tam PLTF
DEFT
CONSISTING OF 1 PAGES
DATE 12-12-07
BEHMKER REPORTING & VIDEO SERVICES

This is in reference to your request for reassignment within the Oakland Processing & Distribution Center. We are pleased to inform you that you have been accepted for the following position:

Office name: **Oakland Processing & Distribution Center**
1675 7th Street
Oakland CA 94615-9998

Position: **PTF, Motor Vehicle Operator, Level 6**
Tour 2, Pay Location 080

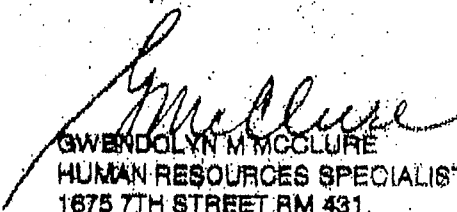
Report to: **Balvinder Chachra, Manager PVS Operations**

The effective date of your reassignment will be Saturday, September 17, 2005.

You are scheduled for Drivers Training on Tuesday, September 20, 2005, from 7:00 a.m. to 3:30 p.m. at 1155 7th Street, Oakland, CA.

Should you have any questions, please contact me at the address listed below. Thank you for your interest in reassigning within the Oakland Processing & Distribution Center.

Sincerely,


GWENDOLYN M. MCCLURE
HUMAN RESOURCES SPECIALIST
1675 7TH STREET RM 431,
OAKLAND, CA 94615-9422

BAY-VALLEY DISTRICT EEO OFFICE
REDRESS™ - DISPUTE RESOLUTIONEXHIBIT 9 PLTF
DEFT
WITNESS J. Tam
CONSISTING OF 1 PAGES
DATE 12-12-07
BEHMKKE REPORTING & VIDEO SERVICES**SETTLEMENT AGREEMENT FORM**USPS CASE #: 1F-946-0113-03
Date of Mediation: Wednesday, October 22, 2003
Mediator Invoice #: 04-PAC-0870-003**IN THE MATTER OF MEDIATION BETWEEN**Counselee: Jeffrey Tam
Management Official: Balvinder Chadha, TNA Keith Inouye, MT/N

Any alleged breach arising out of the implementation of or compliance with this settlement agreement must be reported in writing to the EEO Office within 30 days of the alleged breach.

THIS AGREEMENT DOES/DOES NOT NEED TO BE APPROVED BY:
_____ (e.g., union official, management official, labor relations, etc.)

AGREEMENT

As A Complete and final settlement of the subject matter, and without prejudice to the position of the parties in this or any other case, and with the understanding that it will not be cited in other proceedings, by the counselee, the counselee's representative (if any), and/or the union, the following resolution has been entered into by the parties. It is mutually agreed between the parties that this matter be resolved as follows:

- MANAGEMENT OFFERED AND JEFFREY AGREED TO A 4:30 AM STARTING TIME ON THURSDAYS AND FRIDAYS EFFECTIVE TOMORROW MORNING.
- JEFFREY WILL SUBMIT SUGGESTIONS FOR REVISED CLERK SCHEDULE BY FRIDAY, OCTOBER 31, 2003.
- MANAGEMENT WILL MEET WITH JEFFREY AT THE TIME OF SUBMITTAL TO DISCUSS THE PROPOSED SCHEDULE.

Initials: JT Counselee
BT Counselee's Rep.
BT Union Rep.BT Mgt. Official
BT Mgt. Official
BT Mgt. Official Rep.

____ Mediator

RECEIVED

CONSISTING OF 13 PAGES

DATE 12-12-07

BEHMK REPORTING & VIDEO SERVICES

US. Postal Service

Information for Pre-Complaint Counseling

Certified Mail No.
7004135000003307377

Date Mailed or Hand Delivered

on October 26, 2004

By (Initials)
MYCase No.
PRE-001686-2005

On 10/26/2004 you requested an appointment with a Dispute Resolution Specialist.

Important: Please read. You should complete this form and return it to the EEO office within 10 calendar days of receipt. This is the notification that you will receive regarding the necessity for you to complete this form.

RECEIVED

A. Requester Information

Name (Last, First, MI)

Social Security No.

TAM, JEFFREY

Your Mailing Address

406 YORKSHIRE ROAD,

ALAMEDA, CA 94501-6041

BAY VALLEY DISTRICT
EEO DISPUTE RESOLUTIONName of Postal Facility Where You Work
OAKLAND TRANSPORTATION
NET

City Where Facility is Located

OAKLAND

Office Telephone No.

(510) 874 8433

Address of Postal Facility

1675TH ST OAKLAND

Email Address*

Employment Status (Check One)

☐ Applicant ☐ Casual ☐ TE ☒ Career

Position Title

BULK MAIL ASSISTANT

Grade Level

PG 6

Pay Location

664

Tour

1,2,3

Duty Hours

Off Days (If Tour 1, Show Nights Off)

TUESDAY / WEDSDAY

Time in Current Position

years 5 months 5

Your Supervisor's Name

FRANK TAYLOR

Supervisor's Title

TRANSPORTATION NETWORK

Supervisor's Telephone No.

(510) 874 8243

*Providing this information will authorize the U.S. Postal Service to send you important documents electronically.

B. Discrimination Factors

Prohibited discrimination includes actions taken based on your Race, Color, Religion, Sex, Age (40+), National Origin, Physical and/or Mental Disability, or in Retaliation (actions based on your participation in prior EEO activity). These categories are referred to on this form as factors.

What factor(s) of Discrimination are you alleging? (Please be specific, i.e., Race-(African American), Sex-(Female).

Race (Chinese)

For Retaliation Allegations Only. If you are alleging retaliation discrimination, provide the date(s) and specifics of the EEO activity that you feel caused you to be retaliated against.

1. On _____, I engaged in EEO activity. Case No.: _____
(Month, Day, Year)2. On _____, I engaged in EEO activity. Case No.: _____
(Month, Day, Year)

C. Description of Incident/Action

Please use the space below to briefly describe the incident or action that prompted you to seek EEO counseling at this time.

On September 23, 2004
Month, Day Year

On Sep 23 MR Inouye approached and in private told me that I fight against the system. I replied to him that I can run the operation better than them (MR Inouye said denied my promotion many times in the past). He said that that was only one aspect.

After MR Inouye's malicious confrontation I felt very stressed. I even decided on Oct 15, I met with MR Inouye at his office. I demanded an explanation why he said I fight the system. MR Inouye did not give me any answer.

I also asked him about the other aspect that I am not qualified. He said that he can select people for the position who should be able to learn the administration procedure. I said to him that you tell me I went to school and earn my AA and BS degree that I can not learn. MR Inouye said to me that some of you even you have PhD still can not do.

Retaliation

Explain why, based on the factors you cited in Section B, you believe that you were treated differently than other employees or applicants in similar situations.

1. DELLEY, BARBARA Black, Female
(Name of Employee) (Factor(s) describing employee, i.e., Race-Black, Sex-Female)

was treated differently than I when: I was maliciously intimidated

2. JONES, WILLIAM BLACK male
(Name of Employee) (Factor(s) describing employee, i.e., Race-Black, Sex-Female)

was treated differently than I when: I was maliciously intimidated

3. STATEN, WOODROW BLACK MALE
(Name of Employee) (Factor(s) describing employee, i.e., Race-Black, Sex-Female)

was treated differently than I when: I was maliciously intimidated

E. Official(s) Responsible for Actions(s)

List the name(s) of the official(s) who took the action which prompted you to seek counseling at this time.

1a. Name <u>MR Keith Trappe</u>	b. Title <u>Transportation Network Manager</u>
c. Office <u>207</u>	d. Grade Level <u>23</u>
2a. Name	b. Title
c. Office	d. Grade Level

Retaliation Allegations Only: Was/were the official(s) listed in Section E (above) aware of your prior EEO activity?
☐ Yes ☒ No If yes, explain how the official(s) became aware of your prior EEO activity.

F. Resolution Sought:

What are you seeking as a resolution to your pre-complaint?

Be fair. I will reserve my right to seek for monetary damage.

G. Grievance/MSPB Appeal

On the incident that prompted you to seek EEO counseling, have you:

1. Filed a grievance on the issue? ☐ Yes ☒ No If yes, _____ (Date) _____ (Current Step)

2. Filed a MSPB appeal on this issue? ☐ Yes ☒ No If yes, _____ (Date Appeal Filed)

onymity

You have the right to remain anonymous during the pre-complaint process.

Do you desire anonymity?

☐ Yes

☒ No

Representation

You have the right to retain representation of your choice. (Check One)

☐ I waive the right to representation at this time.

OR

☒ I authorize the person listed below to represent me.

Name of Representative

AR Bernard Roberson

Representative's Title

Slamer

Organization

Telephone No.

Email Address*

(510) 520 7433

Mailing Address (Street or P.O. Box, City, State and Zip +4)

*Providing this information will authorize the U. S. Postal Service to send your representative important documents electronically.

J. Documentation

Please attach any documentation you wish to submit to support your allegation(s). Include a copy of any written action(s) that caused you to seek counseling at this time.

Note: If you are alleging mental and/or physical disability, it is important for you to submit medical documentation of your disability during the pre-complaint process.

K. Privacy Act Statement

Privacy Act Notice: The collection of this information is authorized by the Equal Employment Opportunity Act of 1972, 42 U.S.C. 2000e-16; The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 633a; The Rehabilitation Act of 1973, as amended, 29 U.S.C. 794a; and Executive Order 11978, as amended. This information will be used to adjudicate complaints of alleged discrimination and to evaluate the effectiveness of the EEO program. As provided, this information may be disclosed to an appropriate federal, state, local, or foreign, for law enforcement purposes; where pertinent, in a legal proceeding to which the USPS is a party or has an interest; to a government agency in order to obtain information relevant to a USPS decision concerning employment, security clearances, contracts, licenses, grants, permits or other benefits; to a government agency upon its request when relevant to its decision concerning employment, security clearances, security or suitability investigations, contracts, licenses, grants or other benefits; to a

congressional office at your request; to an expert, consultant, or other person under contract with the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to an investigator, administrative judge or complaints examiner appointed by the Equal Employment Opportunity Commission for investigation of a formal EEO complaint under 29 CFR 1614; to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; and to a labor organization as required by the National Labor Relations Act. Under the Privacy Act provision, the information requested is voluntary for the complainant, and for Postal Service employees and other witnesses.

L. Acknowledgment

I am aware that the claim(s) contained herein shall by-pass the pre-complaint process if like or related to a formal complaint that I have already filed, or if the claim(s) constitutes a spin-off complaint. (A spin-off complaint contests the manner in which a previously filed complaint is being processed.) In completing this PS Form 2564-A, Information for Pre-Complaint Counseling, I recognize that the Manager, Dispute Resolution, will review the claim(s) contained herein and determine how they shall be processed. I will be notified, in writing, if the Manager determines that my claim(s) shall be processed as amendments or appendages to a formal complaint that I have already filed.

Please Print Your Name Here

JEFFREY W TAM

Your Signature

Jeffrey W. Tam

Date Signed

11/4/04

Please Return This Form To:

JUDY MARTINEZ
MANAGER, EEO DISPUTE RESOLUTION
P O BOX 23445
OAKLAND, CA 94623-3445



Privacy Act Notice for EEO Discrimination Complaint - Interview

Case No.

Privacy Act Notice

Privacy Act Notice. The collection of this information is authorized by The Equal Employment Opportunity Act of 1972; 42 U.S.C.2000e-16; The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 633a; The Rehabilitation Act of 1973, as amended, 29 U.S.C. 794a; and Executive Order 11478, as amended. This information will be used to adjudicate complaints of alleged discrimination and to evaluate the effectiveness of the EEO program. As a routine use, this information may be disclosed to an appropriate government agency, domestic or foreign, for law enforcement purposes; where pertinent, in a legal proceeding in which the USPS is a party or has an interest; to a government agency in order to obtain information relevant to a USPS decision concerning employment, security clearances, contracts, licenses, grants, permits or other benefits; to a government agency upon its request when relevant to its decision concerning employment, security clearances, security or suitability investigations, contracts, licenses,

grants or other benefits; to a congressional office at your request; to an expert, consultant, or other person under contract with the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to an investigator, administrative judge or complaints examiner appointed by the Equal Employment Opportunity Commission for investigation of a formal EEO complaint under 29 CFR 1614; to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; and to a labor organization as required by the National Labor Relations Act. Under the Privacy Act provision, the information requested is voluntary for the complainant, and for Postal Service employees and other witnesses.

Signature of Counselor

PS Form 2563-A, November 1999

Date

11/4/04



Allegations of Discrimination Based on Age

The Age Discrimination in Employment Act of 1967, as amended, (ADEA) prohibits discrimination in employment on the basis of age (40 years or older). The ADEA allows persons claiming age discrimination to go directly to court without going through an agency's administrative complaint procedures. The following information is being provided to you to explain the procedures concerning age discrimination.

If your complaint alleges age discrimination, you may bypass the administrative complaint process by electing not to file a formal complaint and instead filing a civil action in an appropriate U.S. district court. Before filing suit in U.S. district court, you must file a notice of intent to sue with the Office of Federal Operations, Equal Employment Opportunity Commission. You must file the notice within 180 calendar days of the date of the action alleged to be discriminatory. Once you have timely filed the notice of intent to sue, you must wait at least thirty (30) calendar days before filing a civil action.

Notices of intent to sue must be mailed to the EEOC at the following address:

FEDERAL SECTOR PROGRAMS
OFFICE OF FEDERAL OPERATIONS
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
P.O. BOX 19848
WASHINGTON, D.C. 20036-9848

hand delivered to:

FEDERAL SECTOR PROGRAMS
OFFICE OF FEDERAL OPERATIONS
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1801 L STREET, N.W.
WASHINGTON, D.C. 20507

or facsimile to:

FEDERAL SECTOR PROGRAMS
OFFICE OF FEDERAL OPERATIONS
(202) 663-7022.

The notice of intent to sue should be dated and must contain the following information:

- 1). Statement of intent to file a civil action under section 15(d) of the Age Discrimination in Employment Act of 1967, as amended;
- 2). Name, address, and telephone number of the employee or applicant;
- 3). Name, address, and telephone number of the complainant's designated representative, if any;
- 4). Name and location of the Postal facility where the alleged discriminatory action occurred;
- 5). Date on which the alleged discriminatory action occurred;
- 6). Statement of the nature of the alleged discriminatory action(s); and
- 7). Signature of the complainant or the complainant's representative.

If, however, you choose to file a formal, administrative complaint, you must exhaust administrative remedies before proceeding to court. 29 C.F.R. §1614 provides that a complainant exhausts administrative remedies under the ADEA either: (1) 180 days after filing a complaint, if the Postal Service has not issued a decision and an appeal has not been taken; or (2) after a final decision by the Postal Service; or (3) 180 days after filing an appeal with the EEOC; or if the EEOC has not issued a decision; or (4) after the EEOC issues a decision on appeal.

Signature of Counselee	Date	Signature of Counselor

Case No.

I,

, do hereby voluntarily withdraw

- ☐ my request for EEO counseling or formal EEO complaint in its entirety.
- ☐ the following allegation(s) ONLY:

I, fully understand that by withdrawing the complaint or allegation(s) I have withdrawn, I am waiving my rights to any further appeal of this allegation(s) through the EEO process. I further stipulate that my withdrawal did not result from threat, coercion, intimidation, promise or inducement.

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grants or other benefits; to a congressional office at your request; to an expert, consultant, or other person under contract with the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to an investigator, administrative judge or complaints examiner appointed by the Equal Employment Opportunity Commission for investigation of a formal EEO complaint under 29 CFR 1614; to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; and to a labor organization as required by the National Labor Relations Act. Under the Privacy Act provision, the information requested is voluntary for the complainant, and for Postal Service employees and other witnesses.

Signature of Complainant

Date _____

PS Form 2564-C, November 1999



Agree to Extend 30-Day EEO Counseling Process

Case No.

I postpone the final interview and to extend the informal counseling process for an additional 60-day period. In signing this agreement, I understand that I retain my right to file a formal complaint if the matter(s) which I raised during counseling are not resolved within 90 calendar days from the date of my first contact with the EEO office, and at anytime thereafter up to 15 calendar days after my receiving my notice of right to file a discrimination complaint.

, in accordance with 29 C.F.R. 1614.105(e), hereby agree to

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grants or other benefits; to a congressional office at your request; to an expert, consultant, or other person under contract with the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to an investigator, administrative judge or complaints examiner appointed by the Equal Employment Opportunity Commission for investigation of a formal EEO complaint under 29 CFR 1614; to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; and to a labor organization as required by the National Labor Relations Act. Under the Privacy Act provision, the information requested is voluntary for the complainant, and for Postal Service employees and other witnesses.

Signature of Counselee

Date

PS Form 2567-A, November 1999

11/4/04



Certification of Receipt — Publication 133

Privacy Act Notice

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contracts, licenses, grants or other benefits; to a congressional office at your request; to an expert, consultant or other person under contract with the USPS to fulfill an agency function; to the Federal Records Center for storage; to the Office of Management and Budget for review of private relief legislation; to an independent certified public accountant during an official audit of USPS finances; to an investigator, administrative judge or complaints examiner appointed by the Equal Employment Opportunity Commission for investigation of a formal EEO complaint under 29 CFR 1614; to the Merit Systems Protection Board or Office of Special Counsel for proceedings or investigations involving personnel practices and other matters within their jurisdiction; and to a labor organization as required by the National Labor Relations Act. Under the Privacy Act provision, the information requested is voluntary for the complainant, and for Postal Service employees and other witnesses.

Certification of Receipt — Publication 133

I hereby certify that on this date I received a copy of Publication 133, *What You Need to Know About EEO*, to keep for my personal records.

Signature of Recipient

Date

Note: Recipient, when you receive this form by mail, please sign and return it to the EEO Office at the same time you return your completed PS Form 2564-A, *Information for Pre-Complaint Counseling*.

Certification of Service — Publication 133

I hereby certify that on this date, Publication 133, *What You Need to Know About EEO*,

was mailed to _____

via Certified Mail No. _____

or delivered by hand to _____

Signature of Server

Date

PS Form 2563-A, March 2001

REF 6016556-2005

MR INOUY denied my request for reassignment. But he allow other clerks to do so (MR Neal, MR Davis and MR Clark.)

MR INOUY set up and allow the schedule that was not fair and reasonable to me. On Thursday and Friday there are two clerks are scheduled day off. One at Tour one (2300 hours) one at Tour two (0700 hours) They have to schedule me to cover Tour one. That make me schedule are Saturday and Sunday start at 0700 hours. Monday starts at 1500 hours. Thursday and Friday start at 2300 hours. That is really unfair and is harmful to my body.

Before the annual sign up. I brought that to my supervisor MR Taylor's attention. After the sign up and worked the schedule but it hard for me to adjust. I brought this to MR Chadha's attention. That I am a diabetic, it is hard for me to this kind of time schedule. MR Chadha said

to me that it is my bid and do not use my health condition to get out of it (I have the lowest seniority at Traffic Control I have to take what ever left)

I then take this to MR Inouy. all he said to me was that they cannot do this to you, let me look into it. But nothing to be done. I filed an EEO

Complaint. They only allow me to start at 0630 hours on Thursday and Friday, not my request on 0700 hours. Make no mistake they are intent to get me!

One of the incident that I felt MR Inouy unfair and repress to me. One of the noonday (I start at 1500 hours) at 1600 hours. I found out that my TV card was cut in half. at 1545 hours. I saw MR Sonny Singh at the door way (the room next to the Traffic control room) MR Singh was supervisor on Tour Two (he get off at 1530) and MS Barbara Dally state that she left that at 1520 and turn off the

TV. (MS Dally getth at 1530) during that time there were no other people come up. Only people at the Traffic Control office were me, MR Thomas and MR Dally.

I myself, MR Thomas and MS Dally wrote up a statement. I gave one set of statement copy to supervisor MR. Orozco and request investigation on the incident (MR Orozco pressed me not to file the complaint, if I do my TV will be taken away) - I file the complaint. I also reported the incident to the Postal Police and I reported this to MR Inouy with the statements. MR Inouy asked me if I saw MR Singh do it. I did not saw he cut it, but the timing and MR Singh had the motive to cut it. MR Inouy said that could MS Dally. It doesn't matter who cut it, there should be an investigation to find out who did it that was the work place violence. But MR Inouy refused to investigate the matter.

There was another incident that MR Chadha threaten Supervisor MR Paulk that if he brought me in for overtime. The incident was MR Staten called in sick. There was no clerk work at traffic control. MR Paulk called me in four hours earlier on Saturday. After MR Chadha know about it, he called MR Paulk at home to harass and threaten MR Paulk, if he bring me in again. MR Chadha will give him a letter of warning. MR Paulk stop to bring me in the next day even there was no clerk at Tour one.

MR Chadha also called MR Conner (supervisor Tour one) at home to stop bring me in to work overtime one week end. MR Staten called sick. MR Conner brought me 4 hours at Saturday. and told me to come in at Sunday. MR Singh (Tour two supervisor) hear that and inform MR Chadha about MR Conner about to bring me in for overtime.

E - 061686-2005

About three hours later MR Corner called me at work said MR Chaffin did not want me to come in at Sunday.

Another incident that I was discriminate and retaliated against. That I requested to correct the mistake on the master schedule (There were many mistakes have been made on the schedules) My request was to correct the month on the schedule which should be October not September. But I was yell at by Supervisor MR Morris said it make no difference as long as the days were right. I told him that I want the correct information so I can file grievance. After they learned about I make copy on the schedule.

They retaliate by remove the master schedule from the Traffic Control. MR. Morris also schedule other Clerk for 7 days. (MR Morris, MR Jones and MR Dally are Black) But does not schedule me for 7 days